



LINCOLN LEGAL SERVICES (MYANMAR) LIMITED

The Republic of the Union of Myanmar

Ministry of Commerce

Bulletin (1 / 2023)

Date. 5 September 2023

Subject: **Public Announcement of the E-Commerce Guidelines**

1. The objectives of releasing the E-Commerce Guidelines are to protect consumers' rights, ensure the exercise of ethical business standards, and foster a secure E-Commerce ecosystem through an understanding of and adherence to the relevant laws and regulations governing the field of E-Commerce.
2. Those engage in E-Commerce shall adhere to the attached E-Commerce Guidelines in operating their business systematically.
3. The provisions of these E-Commerce Guidelines shall be periodically reviewed and changed in accordance with the prevailing legislation, and modifications if any will be released in due course.

Ministry of Commerce

CONVENIENCE TRANSLATION - ACCURACY NOT GUARANTEED

Ministry of Commerce
E-Commerce Guidelines
September 2023

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Outline

In the development of Myanmar's e-commerce businesses, it is important to devise policies that can facilitate and create a climate of trust not only for e-commerce entrepreneurs but also for consumers. For such policies to emerge, it was found that it is necessary to establish and apply procedures or guidelines to regulate e-commerce businesses. In order to meet these demands, the Ministry of Commerce has made efforts to identify and apply appropriate methods.

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The study found that in order to develop a separate law for the e-commerce sector, a lot of resources must be expended, and that it takes time to enact an e-commerce law for a broad subject like e-commerce. In some countries of the world, e-commerce guidelines have been issued and are being administered prior to the implementation of a specific law for e-commerce. It is the first step to develop and implement e-commerce guidelines to follow up quickly with e-commerce businesses that are developing rapidly due to the nature of technology-based businesses.

It is hoped that, if persons engaging in e-commerce follow the guidelines, things like buyers increasing their trust and awareness in e-commerce businesses, familiarity, and compliance will become normal, and the objectives of issuing these guidelines will be achieved.

Ministry of Commerce

Part 1 **Introduction**

1. Electronic commerce has become a growing business trend in Myanmar, and the country's economy is rapidly changing from traditional to digital. Using e-commerce can bring many benefits to consumers and businesses in Myanmar, thereby supporting the country's overall economy. E-commerce can create opportunities for businesses to develop new markets and have deeper and broader relationships with consumers than ever before.
2. These e-commerce guidelines have been developed with the goal of helping businesses and consumers to have a legal understanding of the laws and provisions that apply to transactions using e-commerce, and to improve predictability by knowing and understanding them.
3. These guidelines were written with the following points in mind to give effect to the goals of these guidelines.
 - (a) To encourage and support the development of e-commerce businesses;
 - (b) to protect consumer confidence by protecting consumer rights;
 - (c) to support the implementation of e-commerce agreements, including the ASEAN E-Commerce Agreement;

Part 2 **Definitions**

4. The following expressions used in these guidelines are defined as follows:

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- (a) “**Electronic commerce or e-commerce**” means the sale of goods or services over the internet or other information networks. In this expression, sales promotion, marketing, logistics, ordering, and delivery are also included.
- (b) “**E-commerce platform entrepreneur**” means a person who is responsible for enabling sales through e-commerce by two or more entrepreneurs on an e-commerce platform.
- (c) “**E-commerce business operator**” means a person who operates by way of e-commerce or a person who is authorised to so operate. In this expression, e-commerce platform entrepreneurs, entrepreneurs selling on an e-commerce platform, and sellers through social media platforms¹ are also included.
- (d) “**Personal data**” means personal data about individuals engaged in electronic commerce.
- (e) “**Drip pricing**” means a price statement that misleads the consumer by understating the actual price for goods or services sold through e-commerce and adding additional charges to that price after confirmation of the purchase.
- (f) “**Commercial electronic message**” means types of data messages, content on a website or in another database, hyperlinks to them, or contact information that contain proposals to sell goods or services. This expression also includes data messages sent for the following commercial purposes:
 - (1) Information sent in connection with things such as products, goods, services, real estate, interest, land ownership;
 - (2) Information sent to promote or advertise opportunities.
- (g) “**Payment service provider (PSP)**” means businesses/organisations that provide services to allow businesses to make online payments using a bank account or without using a bank account, such as credit card, instant payment card, mobile wallet, or bank transfer (direct deposit). This expression includes any combination of payment platforms and payment processors.
- (h) “**Data controller**” means authorised persons or persons empowered by law, government authorities, government organisations or organisations formed separately or jointly by other organisations who/that have the right to manage personal data.

¹ Sale of goods or services, sales promotion, marketing, logistics, ordering, and delivery using internet-based social media sites or websites such as Facebook, WeChat, Paypal, Alipay, Instagram and Twitter.



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- (i) “Consumer” means a user who purchases goods or services through e-commerce.

Part 3 Objectives

5. The objectives are as follows:
- (a) Understanding the provisions of applicable laws and regulations covering e-commerce and following them correctly;
 - (b) supporting effective law enforcement to develop consumer protection, fair trading practices, and a secure e-commerce ecosystem.

Part 4 Application

6. These guidelines apply to anyone involved in e-commerce businesses.
7. In any of the following circumstances, relevant applicable laws, regulations and codes [*literally, “disciplines”*] apply to disputes and legal matters regarding contracts of e-commerce business operators:
- (a) Where the conditions to be complied with are not included in the contract, the consumer’s address is situated in Myanmar;
 - (b) both sides agreed at the time of making the contract that the relevant laws in force shall apply;
 - (c) where the conditions to be complied with are not included in the contract, the contracted activity (e.g., the place of service) is situated in Myanmar;
 - (d) where there are no conditions to be complied with and both parties have not yet concluded a contract, the seller’s business is situated in Myanmar.

Part 5 E-commerce compliance points

Registration

8. An e-commerce business operator in Myanmar must be registered in the designated registration system managed by the Ministry of Commerce.



9. Compliance is required with the order, directives and procedures issued by the Ministry on the registration system and registration process specifications.

Compliance with applicable laws

10. An e-commerce business operator shall conduct business activities in accordance with the relevant laws, rules and regulations in force in Myanmar, and shall observe and follow the matters prohibited by the laws in force of Myanmar. For reference, laws and fields related to e-commerce are listed in appendix A.
11. A person wishing to operate an e-commerce business shall comply with administrative requirements such as applying for a business license required according to the type of business, registering the business, and obtaining official certification in accordance with the laws and procedures of Myanmar in force. For reference, a sample list of administrative requirements that have to be complied with according to the type of business as per the laws and procedures related to e-commerce is provided in appendix B.
12. An e-commerce business operator shall, when selling goods or services or both, comply with the relevant laws, rules and regulations covering the specific goods and services. A list of laws is provided in appendix (C) for reference.

Public awareness and transparency about the business

13. An e-commerce business operator shall publish the following information constantly in real time in a conspicuous place by placing a link or QR code on the website or social media site on which he sells and which he uses:
 - (a) Registered business name or business operator name;
 - (b) E-commerce registration information; place of registration including company registration;
 - (c) address, e-mail address and phone number to contact;
 - (d) contact person for enquiries;
 - (e) business registration or relevant license information (if applicable);
 - (f) dispute resolution methods and information, including dispute resolution services for domestic and cross-border disputes;
 - (g) in case of a business organisation, information about the organisation (if applicable).



Part 6

Electronic contracts in e-commerce

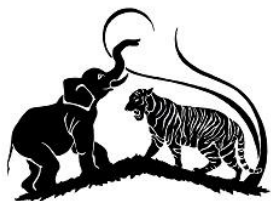
14. An e-commerce business operator shall comply with the provisions of the Electronic Transactions Law, the Contract Act, other laws in force, and these guidelines when making a contract with electronic technology.
15. When making a contract with electronic technology, e-commerce business operators shall strictly comply with the following specifications at the relevant stage:
 - (a) Completeness of the notice;
 - (b) clear and certain proposal to buy and acceptance to sell;
 - (c) legal competence;
 - (d) consent of the parties;
 - (e) avoidance of unfair terms.

Completeness of the notice

16. An e-commerce business operator shall, before making a contract with consumers using electronic technology, fully inform the buyers of the contents of the contract so that they have full opportunity to consider the terms of the contract or formally accept or reject the contract.
17. When making contracts using electronic technology, one of the following two types of contract forms shall be used:
 - (a) **Click-wrap or click-through or web-wrap contract form**

Consumers must scroll down to the bottom of the page to read the terms and conditions. Before completing the transaction, consumers can confirm the purchase contract by clicking on an icon with “I agree” or “I accept” or a similar text to confirm the terms.
 - (b) **Browse-wrap contract form**

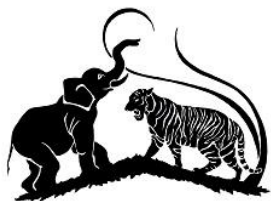
This is a contract form that does not require the user to specifically state that he agrees to the terms and conditions. They are included in the software or website and the use of the software and website indicates that the consumer has automatically agreed to the terms of the purchase contract.



- (c) When trading through social networking platforms, making an agreement between the seller and the buyer in some way (for example, accepting or rejecting through a message).
18. There shall be no completion or completion of purpose on a webpage that does not provide for the steps needed as per the basic requirements to create the aforementioned contract forms. Examples of contract forms used in e-commerce transactions can be found in appendix (D).
 19. An e-commerce business operator shall include the necessary terms and conditions in accordance with the laws and make them easy for the user to understand while the contract is still being prepared.

Clear and certain proposal to buy and acceptance to sell

20. An e-commerce business operator shall comply with the provisions of sections 21-27 Electronic Transactions Law 2004, the Contract Act 1872 (section 10) and other applicable laws regarding the means to propose and accept a contract by contracting parties. A sample can be found in appendix (E) regarding the stages of contract preparation.
21. For a clear and certain proposal to buy and acceptance to sell, participants in the e-commerce process and prospective buyers need to consider the following points.
 - (a) A proposal is the signification of one person to another of his willingness to do or abstain from doing anything, with a view to obtaining the assent of that other person (section 2(a) Contract Act 1872).
 - (b) A proposal system shall be put in place so that the buyer may propose to buy and make an online contract via e-mail, website or mobile app.
 - (c) Unless the seller clearly states that he wants to enter into a contract, a mere invitation to buy and the display of general awareness of the terms cannot be regarded as the conclusion of a contract.
 - (d) The proposal is completed if the proposer (buyer) received a reply of acceptance or rejection from the person accepting or rejecting the offer to buy (seller).
 - (e) As provided for in section 5 Contract Act, the proposer may revoke his proposal at any time before the completion of the proposal.
 - (f) Before the final conclusion of the sales contract, the seller shall notify the buyer whether or not he wishes to accept this contract. The time of the notification of acceptance of the contract is the time of the acceptance of the sales contract.



- (g) When accepting a proposal to buy, there must be mutual acknowledgment of communication using a designated electronic method between the buyer and seller or person accepting the proposal.

Consent of the parties

22. According to sections 13 and 14 Contract Act 1872, decisions may be made by the free consent of the contracting parties. Free consent means the ability to act freely according to a person's will without coercion, undue influence, fraud, misrepresentation or mistake.

Legal competence of the parties

23. The parties to the contract must be legally competent to enter into the contract. According to section 11 Contract Act 1872, a person must be an adult according to the relevant law, be of sound mind, and not disqualified from contracting according to the relevant laws.

Avoidance of unfair terms

24. An e-commerce business operator shall avoid contracting procedures and forms that have one-sided or unfair terms and conditions and procedures.

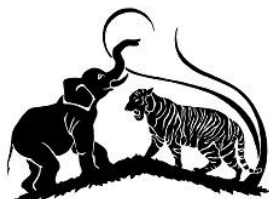
Part 7

Consumer protection in e-commerce

25. An e-commerce business operator shall comply with the laws related to consumer protection and the provisions of these guidelines in order to protect online consumers.

Disclosure notice

26. In order for consumers to make an informed decision, e-commerce business operators shall provide complete and sufficient information that is clear, accurate, consistent, simple, easy to find, and visible. In so doing, the information shall be written for ease of understanding in Burmese, or English, or Burmese and one more other language. In so doing, texts, images, sounds, and videos may be used as appropriate to make the technology easier for consumers to use.
27. When presenting information about goods or services, each category of goods or services shall be clearly identified according to the Consumer Protection Law and related laws.
28. The disclosure of transaction information shall inform the consumer of the full terms and conditions associated with the transaction. Consumers must be given sufficient time to make an informed decision about whether to conduct a transaction. Information related to transaction



stages should be made readily available. An e-commerce business operator shall provide the following information clearly and completely according to the relevant situation:

- (a) Informing about additional charges for the goods or services, transportation charges for the delivery of goods or the return shipment of goods under a warranty replacement, price information and payable taxes;
 - (b) describing in detail the duration of the proposal to buy, options regarding the shipping of the goods and relevant terms for conducting the transaction;
 - (c) informing the consumer about the terms and conditions related to payment methods, including recurring fees such as automatic repeat purchases and subscription renewals, and simple and easy ways set up to enable termination of these automated programmes;
 - (d) subsequently informing the consumer clearly of the points in sub-paragraph (c) during the period of validity in which the transaction is carried out;
 - (e) describing the conditions for packet, parcel, home delivery of goods;
 - (f) providing detailed information and describing warranty conditions regarding transaction revocation, transaction completion or transaction cancellation, efforts to resolve a revocation of the contract by the consumer within the specified period and under the specified conditions after the contract was concluded by the two parties (cooling-off period), service that can be provided after the sale (after-sales services), returns, repairs, exchanges, and refunds;
 - (g) clearly stating relevant information regarding settlement and compensation options regarding damages;
 - (h) providing mandatory safety warnings.
29. Regarding verification, it shall be ensured that complete and accurate transaction records are maintained in a convenient manner with the platform used by the consumer to purchase goods or services or the device used to conduct e-commerce.
30. Before completing the transaction, the consumer shall first be given the opportunity to thoroughly check the goods or services to be bought and used, to check for and correct errors, to amend the order as necessary, and to take the time to consider his consent to the purchase.
31. Arrangements shall be made so that a consumer may cancel a transaction before it is completed.



Fraud and misrepresentation

32. In order to prevent fraud and misrepresentation, an e-commerce business operator shall refrain from the following acts:
- (a) Acts done to obtain a consumer's consent or decision that are deceptive, misleading, inaccurate, or unfair;
 - (b) acts to mislead or cause misunderstanding of the consumer through methods such as using irrelevant explanations that are hidden or difficult to notice or understand in relation to the name, words, images, sound and/or video of the goods or services;
 - (c) concealing or misrepresenting terms and conditions that may affect a consumer's decision to make a transaction;
 - (d) incorrectly stating prices that exceed the costs of the goods or services, including deceptive practices such as mandatory surcharges that are added to the asking price (drip pricing), false reference price, false best price claim, and non-existent discounts.
33. E-commerce business operators shall comply with any applicable industry self-regulatory codes or programme, privacy notices, or any other policies or practices related to transactions with consumers.

Packet, parcel, home delivery of goods

34. For changes in the delivery time, the e-commerce business operator shall provide advance notice directly to the consumer or through the delivery service provider. If the delay time exceeds the estimated range that was predicted, the e-commerce business operator shall notify the consumer of the change in time in advance and give the consumer the option to revise or cancel the delivery schedule.
35. The e-commerce service provider shall give delivery instructions for product handling to the delivery service provider. When giving such instructions, the e-commerce business operator and the delivery service provider shall agree in advance on the way to deal with it if the goods are lost or damaged during delivery. In these agreements, methods to solve payment issues, potential damage or loss during shipping, and potential delays shall be included in advance.
36. If the agreed delivery date is exceeded by more than 15 days, the buyer may terminate the contract signed by the e-commerce business operator. In the event of such termination, the consumer may request a full refund of any payment made by the consumer if the signed contract does not include any terms regarding refunds.



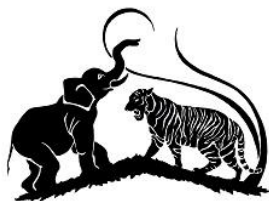
Returning goods, refunds, and exchanges

37. Policies or mechanisms shall be established for consumers that are familiar to consumers and clear and fair and may be applied transparently, to handle complaints and to accommodate compensation arrangements for damages in order to resolve issues such as returns, refunds, exchanges, etc.
38. If a consumer suffers any damage as a result of using goods or services that are of substandard quality due to defective or damaged devices or materials of substandard quality or problems that occurred during shipment, the person responsible referred to in paragraph 35 shall compensate for such damages.
39. The e-commerce business operator shall bear all costs incurred by the consumer for returning the goods, including the shipping fee, for damages caused by the e-commerce business operator's negligence. If the ordered goods have already been paid for in advance, the consumer shall have the right to a full refund when returning the goods, and the e-commerce business operator shall bear all costs of the refund.
40. If the buyer finds during the period agreed in the contract that goods or services sent do not match the goods or services received, he shall notify the e-commerce business operator. If the buyer cannot present evidence after the specified period or is unaware of that period, he shall lose the right to present evidence of non-compliance with the order.
41. If errors occur due to the buyer's mistake (for example, placing an order with the wrong product no.), the settlement shall be made according to the terms and conditions originally negotiated with the e-commerce business operator or in accordance with the agreement obtained with the e-commerce business operator upon receipt of the goods.
42. The e-commerce operator shall make arrangements to ensure that the consumer is not responsible for the loss and may request a full refund of all costs if goods are damaged or lost during delivery.
43. If there is no separate agreement between the e-commerce business operator and the delivery service provider, any loss of goods, damage to the package and wrong delivery shall be the sole responsibility of the delivery service provider after the e-commerce business operator entrusted the ordered goods to the delivery service provider for delivery to the buyer.
44. After the goods have arrived, the consumer shall not be entitled to exchanges, refunds and replacements without a valid reason.



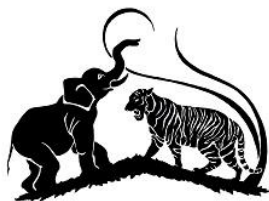
Marketing and advertising

45. Advertising goods and services to the public and promotions shall be carried out in accordance with the provisions of the Consumer Protection Law and the Competition Law and the specifications issued under these laws.
46. When advertising and marketing goods and services, e-commerce business operators shall comply with the following:
- (a) Not imposing unsolicited recurring charges without informing consumers that fees will continue to be charged after the end of the free trial period or the initial low price offer, or that if they do not cancel, services will be subject to recurring charges.
 - (b) When advertising the offer to use a service as a member online during a free trial period or a promotional period:
 - (1) The consumer shall be informed in advance that a fee will be charged for the use of the service and the amount of the fee that is likely to be paid, if the user has the right to continue using the service after the end of the free trial period. Service fees shall be deducted only after obtaining the agreement of the user to continue using the service.
 - (2) The extent of the financial commitment that is likely to arise if the membership is not cancelled during the free trial period shall be stated in a manner that the consumer can easily understand.
 - (3) The conditions that the consumer must comply with in order to access and use the free offer shall be clearly stated in a manner that can be easily understood.
47. When using disguised native advertising (native ads) as commercial advertisements in online advertising that has a similar form and function as the media content to be published (e.g., promotion ads and paid ads published on Facebook), the e-commerce business operator shall comply with the following:
- (a) Making the start and end times of the ad clear to the viewing audience; clearly showing it if there are any things that are similar to those disclosed to the public, ensuring to use clear, meaningful and consistent words.
 - (b) Sponsored content shall be disclosed by displaying the sponsoring company's name and/or trademark/logo somewhere at the beginning, middle, and end of the broadcast or programme.



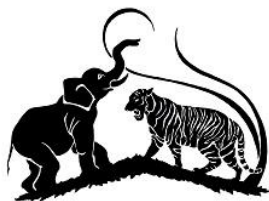
- (c) The brand logo and other visible information, including the name, shall be displayed in native ads in order to clearly identify paid advertising for commercial purposes and to provide information about the identity of the advertiser.
48. When using good and proper endorsements in marketing and advertising, e-commerce business operators shall ensure that material connections² (such as payment, discounts and other financial benefits, family or business relationships) are appropriately disclosed in the endorsements of marketers, market experts, celebrities, and digital influencers. Such disclosure will enable consumers to easily find out if endorsements and promotions are made for financial or other related purposes. The following means shall be used as necessary:
- (a) Clearly writing paid endorsement when a trademark and a celebrity are connected by the insertion of a text, or the insertion of an image, or the combination of images such as a photo with the image of a specific trademark, etc.
- (b) By using things like position (e.g., viewable without clicking or long-scrolling, top left and featured online “above the break,” at the beginning of the video, showing clearly with an image, denoting with a readable hash tag (“#”), etc.), word, font size, colour of indices, information about qualifications, consumers may better recognise paid-for-content.
- (c) Not using endorsements from persons who do not actually use the goods.
- (d) Built-in disclosures included in social media platforms may not be sufficient to enable consumers to discern an ad when simply watching it.
- (e) Disclosure formats used to disclose information to the public shall be easily readable on different types of devices.
49. In order to prevent the misleading/deception of persons who are incapable of making their own decisions (elderly, children, and persons of unsound mind), e-commerce business operators shall point out prohibitions when advertising goods that are restricted by law, and as a special requirement, the advertisement must be designed to fit the needs (tailored ad). Advertisements aimed at children shall not contain images, sound, or videos depicting tobacco, alcohol, blood, gore, horror, weapons, or violence.

² Any kind of relationship is called material connection if it materially or substantially affects public trust and acceptance or the effectiveness of an endorsement as correct/proper. It can generally not be expected that consumers have prior knowledge of such material connections.



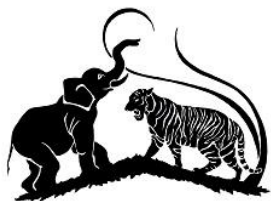
Spam/unsolicited messages

50. When handling unsolicited information and communications in the advertising and marketing of goods and services, e-commerce business operators shall comply with the following:
- (a) In case of sending a commercial electronic message, where the consumer's consent has not been indirectly obtained, the required consent shall be obtained before sending such message. (Opt-in approach)
 - (b) When using an electronic messaging system for marketing activities, the following shall be strictly complied with:
 - (1) Establishing procedures to comply with applicable laws to prevent unsolicited communications in the company's business operations, advertising, and various information technology and marketing activities;
 - (2) members within the company's organisation who need to be trained shall be trained with regard to applicable laws to prevent unsolicited communications; establishing and implementing compliance policies;
 - (3) maintaining complete records of the types of commercial electronic messages sent by its organisation;
 - (4) maintaining complete lists of current consumers to be contacted in order to assess whether they agreed or implicitly agreed to be sent messages or opted out; checking this list regularly at least once every six months;
 - (5) creating an adequate system to record each expression of consent obtained; in case of a consent in writing, recording the time, purpose and form of this consent; in case of an oral consent, preserving the full audio file without modification;
 - (6) Establishing procedures to maintain a list of persons from whom consent was obtained for a period of at least 2 years, and to solicit consent as to whether to extend this period;
 - (7) putting in place unsubscribe systems to accommodate corresponding requests;
 - (8) creating standard forms to be used when sending commercial electronic messages; including unsubscribe systems (including mandatory identification information and contact details) in all forms; if unsolicited messages are sent when sending commercial advertisements and notice is received from a



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- consumer not to send them, mandatorily and permanently deleting the data set from the contact database that sent them;
- (9) strictly abstaining from changing the delivery of data without permission; unless consent is obtained, strictly abstaining from using technology to change and send data for any other purpose than the purpose agreed by the sender;
- (10) following the specified instructions and requesting permission before installation to install or introduce *[anything on/in]* another person's computer or business software.
- (c) In the following exceptions, the sender does not need to be identified and an unsubscribe system does not need to be included in notices relating to transactions:
- (1) Commercial electronic messages sent between those who are married, those who have a parent-child relationship according to custom or law, persons who have regular relationship with each other, and relevant family and friends;
- (2) commercial electronic messages sent between business partners;
- (3) commercial electronic messages sent or re-solicited in response to complaints, inquiries, requests;
- (4) commercial electronic messages sent to enforce legal obligations or rights;
- (5) telecommunication service providers (TSPs): Telecommunication service providers have the right to install computer programmes without requiring consent for the following two purposes:
- (aa) preventing illegal activities that may be harmful to network security;
- (bb) upgrading or modifying devices throughout the network.
- (d) The following shall be avoided: falsifying sender identity or address; using false headlines (titles) or content that contains misleading or deceptive information; ignoring opt-out requests through technical controls; unauthorised use or fraudulent display of routing information or misrepresentation of information related to origin or destination route; and unauthorised use of a third party's domain name.
- (e) Content used in e-commerce activities shall, in order to prevent bulk forwarding and return e-mails that are fraudulently sent (spam ware) and that e-mail addresses are



obtained from websites, prohibit, or restrict and control, the collection of e-mail addresses and bulk forwarding and return e-mails that are fraudulently sent (spam ware).

Education

51. To inform consumers of their rights and responsibilities and increase their knowledge about online consumer procedures, e-commerce business operators shall include on their websites a link where they can read about consumer education programmes or programmes being conducted by the government.

Part 8

Dispute resolution

52. Regarding e-commerce, consumer disputes shall be resolved in accordance with the provisions of the Consumer Protection Law, and disputes related to contracts shall be resolved in accordance with the provisions of the Contract Act.
53. If intellectual property disputes arise, they shall be resolved in accordance with relevant intellectual property laws after the laws come into force.
54. In relation to domestic and cross-border e-commerce disputes, complaints may be handled through out-of court mechanisms such as internal complaints handling and alternative dispute resolution (ADR). In so doing, consumers shall be provided with a fair and transparent dispute resolution procedure.
55. The use of such out-of-court resolution methods under applicable laws shall not preclude consumers from pursuing other forms of dispute resolution and redress.
56. Regarding the court that shall resolve an e-commerce dispute, unless provided otherwise in a legally binding agreement, including trade agreements signed by Myanmar, disputes shall be handled in the competent court according to the law in force of Myanmar.
57. If a complaint arises within the ASEAN region, it shall be resolved in accordance with the ASEAN Guidelines, and complaints arising from non-ASEAN countries will be resolved either according to international agreements or regional agreements or through negotiation between countries.

Disputes not related to the e-commerce contract

58. E-commerce platform entrepreneurs and e-commerce business operators shall consider establishing internal complaints handling mechanisms, as settling domestic and international consumer complaints directly with the official rather than resolving them in the courts plays an



important role in consumer dispute and redress systems. Likewise, the mechanism should be incorporated into the consumer satisfaction measurement system (consumer satisfaction system) and other conflict management systems.

59. Consumers shall have access to alternative dispute resolution (ADR) methods, including online dispute resolution systems, to facilitate the resolution of insurance claims arising from e-commerce transactions (especially low-value or cross-border e-commerce transactions). Alternative Dispute Resolution (ADR) methods may include the following:
- (a) Arbitration. A form of non-traditional dispute resolution in which parties to a dispute present their evidence to a neutral arbitrator in an out-of-court setting (including regulations, time and place) agreed upon by the parties. The decision of the arbitrator is final and legally binding.
 - (b) Binding advice. The Consumer Affairs Committee and other complaint handling bodies are seized to consider all information from both sides and reach a legally binding decision.
 - (c) Mediation. A form of non-traditional dispute resolution in which the parties to the case resolve their disputes themselves with the help of a neutral mediator. The mediator does not make a decision, but helps the disputants reach a mutually acceptable solution. A compromise is reached and the agreement is legally binding between both parties. Mediation may involve experts from relevant fields and representatives from related organisations.
60. An e-commerce platform entrepreneur and those who work with an e-commerce *[platform]* entrepreneur may cooperate as necessary with the consumer affairs representatives of relevant departments so that consumers may choose from a variety of dispute resolution methods that will support the timely and fair resolution of disputes without additional costs.

Part 9

Online ratings and reviews by consumers

61. Online ratings and reviews are an important source of freely available information for consumers. In relation to addressing the provision of false ratings and reviews, an e-commerce operator shall comply with the following:
- (a) Not knowingly posting and distributing untrue ratings and reviews that purport to have been made by actual buyers/users or other third parties.
 - (b) Not hiring third parties who have not used the goods or services to post ratings and reviews for those goods or services.



- (c) Simply and transparently informing consumers about evidence of false ratings and reviews, and removing or cancelling them.
62. In relation to resolving valid but negative ratings and reviews, e-commerce business operators shall comply with the following:
- (a) Not preventing consumers from posting valid but negative ratings and reviews.
 - (b) Not including in the contract provisions to prohibit correct but negative ratings and reviews or to make the consumer send complaints instead of writing a negative comment.
 - (c) Correct but negative reviews may not be edited, delayed, prevented from being distributed, or hidden.
 - (d) Not handling matters unfairly.
63. In relation to addressing misleading and deceptive practices, an e-commerce business operator shall comply with the following:
- (a) Clearly describing the methods adopted by the business how ratings and reviews are handled, including (1) the release schedule; (2) the level and aggregate scoring criteria; (3) the reasons for accepting or refusing to distribute certain reviews;
 - (b) fair and transparent presentation of ratings and reviews through the clear and transparent disclosure of consumer feedback, verified ratings and reviews, and aggregate scores;
 - (c) not counting the same feedback more than once when calculating the aggregate score of ratings and reviews across platforms.
64. In relation to addressing incentivised ratings and reviews, intermediary websites, including platform review websites and social networks, shall comply with the following:
- (a) Clearly stating the type of product or business affiliation, irrespective of the type of media used;
 - (b) disclosing any incentives for good ratings and reviews in a clear and conspicuous manner so that consumers may easily identify incentivised ratings and reviews; incentives may include the opportunity to purchase goods on credit, free of charge, or the promise of future discounts;

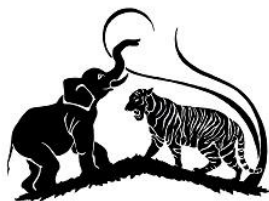


- (c) not providing unreasonable incentives to consumers for the purpose of obtaining positive reviews;
- (d) establishing mechanisms for verifying reviews, including the ability to verify the identity of reviewers through initial registration (e.g., reservation number or purchase record) and the reviewer's Internet Protocol (IP) address, taking care that such arrangements do not discourage consumers from writing reviews online.

Part 10

Payment terms and conditions and payment service providers

- 65. In addition to traditional payment methods, payment in e-commerce shall be made online in accordance with the Financial Institutions Law and the Mobile Financial Services Regulations, Mobile Banking Directive and the applicable laws and directives on electronic card payments, all issued by the Central Bank of Myanmar, directives issued by the Central Bank of Myanmar from time to time, the Foreign Exchange Management Law, Regulation and directives (for foreign payments), and the Merchant Acquiring Service Order. In so doing, it is necessary to connect to banks licensed by the Central Bank of Myanmar, registered mobile financial services businesses, and service providers that collect and settle on behalf of a seller [= *acquirers*], and use permitted electronic money and permitted payment methods and services.
- 66. Payment service providers shall comply with the terms and conditions set by the Central Bank of Myanmar. Regarding electronic payment services, users shall be informed of the functions, methods of use, important notices, potential loss situations, service costs, and other matters. Payment service providers must not impose unfair terms of service. They must strictly follow payment instructions using a secure electronic method that is complete, consistent and traceable.
- 67. E-commerce business operators shall retain proof of purchase and payment records for at least 3 years. Online payment service providers shall upon request provide users with a record of their transactions for the last 3 free of charge.
- 68. Regarding the security of payment in online payment services, if there is any loss that is not due to an error of the online users, the payment service providers shall fully compensate for the loss.
- 69. The user of the payment service shall carefully check the amount, the payee, and other information included in the payment instruction. If there is any error in the payment instruction, the payment service provider shall immediately investigate and take necessary action to correct the error. If the service provider is unable to show that he is not responsible for the error, he shall provide reasonable compensation for the losses if the user provides credible evidence.



70. The payment service provider shall accurately provide the buyer with a payment confirmation when the payment is completed.
71. The service user shall properly maintain payment passwords, electronic signature information and other security devices. Users shall promptly notify the payment service provider of any loss or misuse of security devices or unauthorised payments.
72. The payment service provider shall be liable for losses arising from unauthorised payments. The service provider shall not be responsible if he can prove that the payment without such authorisation was caused by an error of the user.
73. The payment service provider shall immediately take measures to prevent further losses from occurring upon discovery of an unauthorised payment or the receipt of a notice of payment without the user's consent. If further losses arise as a result of the failure of payment service providers to take immediate action, payment service providers shall be liable for such losses.

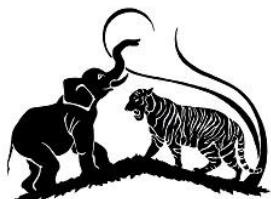
Part 11

Protection of privacy and personal data

74. An e-commerce business operator shall comply with the obligations to protect the privacy and personal data of consumers in accordance with the provisions of the Constitution of the Union, Telecommunication Law, the Law Protecting the Privacy and Security of Citizens and other laws in force as well as the basic principles of conduct in this part.
75. An e-commerce business operator shall apply the following basic principles of conduct, as appropriate, to personal data related to his business activities:
 - (a) **Limitation on collection of data.** The collection of personal data and payment information shall be limited. Any personal data, including sensitive data, shall be collected in accordance with the law and by reasonable means, by identifying the person who will collect the data, or by guaranteeing that it will not be used for any other improper purpose, or by obtaining consent in advance.
 - (b) **Collecting good quality data.** The personal data to be collected shall be collected only to the extent necessary to meet the purposes for which it will be used, and care shall be taken to ensure that the data is accurate and complete and up-to-date.
 - (c) **Use only for specified purposes.** The purpose for which the personal data will be collected shall be determined no later than at the time the data is collected, and the use shall be limited to only that purpose if there are other conflicting purposes, and each situation where the purpose may change shall be identified.



- (d) **Restrictions on use.** Action shall be taken to prevent the disclosure of personal data, access/use, or use (even occasionally) for purposes other than the specified purpose (except in cases where the subject's consent has been obtained or the use is allowed by law). The retained data may not be transferred or sold to any person or organisation, whether for a fee or free of charge. In addition, there shall be no disclosure to the public. Once the purpose of the data collection is accomplished, the data shall be kept only for a certain period beyond the original purpose or shall be destroyed, unless destruction is prohibited by law or in a situation where destruction would be contrary to the public interest.
- (e) **Protection in terms of security.** Be sure to use security safeguards appropriate to the nature of the market to protect against "risks" such as loss of access or unauthorised access, destruction, use, modification or disclosure of personal data. However, if [*a security breach*] happens due to the negligence of the consumer or his directly sharing with others confidential data such as his password, the e-commerce business operators shall not be held responsible.
- (f) **Being honest and open.** Establish a general policy of honesty and transparency related to development, practice, and policies regarding personal data. The policy should include data on the nature and type of personal data, the main purposes of the use of the data, and the identity and permanent address of the data controller.
- (g) **Individual participation.** Individuals have the following rights of participation as basic principles:
- (1) Right to obtain the data subject's data from the data controller, or right to obtain confirmation of whether or not the data controller has data related to him in his possession;
 - (2) data about the subject shall be communicated within a reasonable period of time, in a reasonable manner, and in an easy-to-understand format, and if it is necessary to pay a fee, the amount shall not be excessive;
 - (3) If a request made pursuant to the rights in sub-clauses (1) and (2) above is rejected, the individual shall have the right to request the reason for the rejection and to appeal against such rejection;
 - (4) The data owner has the right to complain about his data, and if his submission is successful, he has the right to have the data destroyed, corrected, completed or amended.



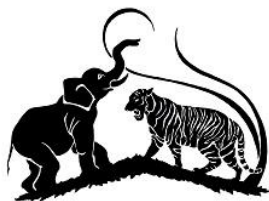
- (h) **Accountability.** The person responsible as data controller shall comply with the basic principles of conduct referred to above and be responsible for implementing the measures to be applied to achieve a benefit.
 - (i) **Consent.** For the disclosure or use and collection of data about the subject, the consent of the subject shall be requested or the subject shall be notified that his consent is needed.
 - (j) **Challenges related to compliance.** Consumers shall be able to inform the organisations' regulatory authorities and persons put in charge about challenges related to the basic principles of conduct referred to above.
76. E-commerce business operators are encouraged to establish a privacy management plan to ensure implementation of necessary measures related to basic principles of conduct based on privacy.
77. E-Commerce business operators are encouraged to adopt measures to promote the use of privacy-enhancing technologies (PETs) in order to respect privacy and improve technological communication.
78. An e-commerce business operator shall cooperate with related departments in establishing supplementary measures to improve the quality of education and awareness and increase technological measures in order to protect privacy.
79. An e-commerce business operator shall notify the relevant authority abuses of technological measures, leaks of personal data, and violations of applicable laws are found.
80. E-commerce business operators shall comply with provisions for reducing the risk that individual historical data of users may be breached in the business, on non-discrimination with regard to data such as race and religion, for ensuring non-discrimination in the processes of verifying registration data, that prohibit the sale or disclosure of personal data, and that prohibit the sale, rent or exchange of personal data obtained online without the permission or express consent of the consumer.

Part 12

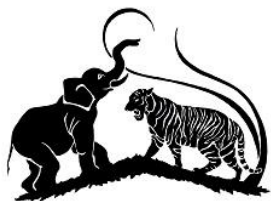
The role of intellectual property rights and the responsibilities of e-commerce business operators

Compliance with intellectual property rights

81. An e-commerce business operator shall refrain from any act that directly violates intellectual property rights in accordance with the provisions of intellectual property rights laws, namely the Trademark Law, Industrial Design Law, Patent Law, and Copyright Law.



82. An e-commerce platform entrepreneur shall be responsible for respecting the following:
- (a) An e-commerce platform entrepreneur failing to take necessary action to remove goods or services sold on the e-commerce platform, in spite of knowing or there being valid reason to know that they infringe an intellectual property right, shall be as liable as the operator selling on the platform.
 - (b) Knowing or failing to know that an intellectual property right has been infringed includes the following circumstances:
 - (1) Not preventing an intellectual property rights infringement in spite of knowledge or there being valid reason to know.
 - (2) Creating a situation where there is a possibility of infringement without taking appropriate measures to protect the interests of intellectual property rights holders.
 - (3) Describing, sharing or selling information related to intellectual property rights attached to goods or services whose sale has increased to manufacturers and sellers in various ways.
 - (c) If the holder of intellectual property rights files a complaint with evidence that his rights have been infringed, the e-commerce platform shall, in order to prevent the infringing goods or services from being traded, take immediate action in accordance with its own intellectual property rights regulations or by adopting necessary measures. The form shall be specified for reporting through the e-commerce platform so that a complaint may be made in case of an intellectual property rights infringement.
 - (d) If a complaint is made under sub-clause (c), the complaint shall be reported to the person concerned. If the relevant person's side does not respond to the notice or if the complaint is not rebutted within 7 days, the good or service shall be removed from the e-commerce platform after the completion of 7 days.
 - (e) Any goods or services deemed to be materially infringing any intellectual property right shall be immediately removed from the e-commerce platform.
 - (f) If the seller on the e-commerce platform seller submits a rebuttal containing initial proof that the intellectual property right has not been infringed, the rebuttal shall be sent to the intellectual property rights holder who filed the complaint. The intellectual property rights holder shall submit proof of ownership of the intellectual property right to the court or relevant department within 30 days. Within these 30 days, specific measures to protect



the intellectual property right related to the complaint shall be taken, and if the specific measures to protect the intellectual property right are not submitted within the specified period, the specific measures to protect the intellectual property right shall be suspended.

- (g) Infringing (copying) the overall design/pattern/packaging of goods or services on an e-commerce platform or on other platforms shall not be tolerated.
- (h) To enable an e-commerce platform to make meaningful arrangements for notices and complaints, a holder of intellectual property rights shall suggest methods for cooperation.

83. The seller on an e-commerce platform shall be responsible for the following:

- (a) Refraining from directly or indirectly encouraging any conduct that may infringe an intellectual property right. Cooperating in preventive measures to prevent the infringement of intellectual property rights.
- (b) Obtaining a license or registration in accordance with the laws in force to strengthen intellectual property rights protection.
- (c) Refraining from selling or providing services on any e-commerce platform that infringe (copy) the design/style/packaging of goods or services.

Responsibilities

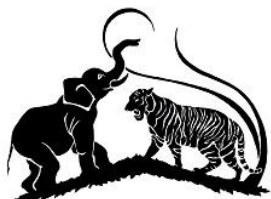
84. E-Commerce business operators are fully responsible for cooperating with the following:

- (a) In order to access and sell goods or services on an e-commerce platform, it is necessary to keep an accurate list of sellers' data (including identity, address, contact information, business license and other factual data) and verify and confirm that it is correct; such data shall be kept on record in the e-commerce platform and shall be regularly verified and updated according to the latest status.
- (b) In relation to the issues in clause (a), if it is necessary to verify and confirm, the relevant government departments shall be contacted.
- (c) The following measures shall be adopted regarding goods and services that are sold illegally on an e-commerce platform:
 - (1) Adopting measures to detect them in advance and establishing a notification system to receive notifications from users;



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- (2) In order to take action in accordance with the laws in force against illegal sales that are being found, having transparent procedures, and establishing and implementing effective measures;
- (d) Implementing necessary technical measures to ensure network security and smooth operation, prevent online illegal activities or crimes, effectively handle online security incidents, and ensure safety of e-commerce transactions.
- (e) Information about goods, services and transactions shall be kept securely for at least 3 years from the date of completion of the transaction. This information shall be provided if so requested by a court or authority in accordance with the law.
- (f) Information about the e-commerce platform's regulations or their amendments shall be displayed in a conspicuous place on the webpage at all times, to establish transparent and fair and clear terms of service for entrepreneurs who sell on the e-commerce platform, and to explain their rights and responsibilities with regard to access to, sales on, and withdrawal from the e-commerce platform.
- (g) Prohibition to set and charge unfair and unreasonable fees to sellers on the e-commerce platform.
- (h) In order to provide clear and legal instructions to entrepreneurs for the creation of content in accordance with the regulations in the agreed contract and for the submission and removal of content (post), and in order to protect consumers, information on the regulations established in accordance with the law on "content regulation" shall be provided.
- (i) The design of e-commerce platforms and online payment systems shall take into account the needs of persons with disabilities in accordance with the provisions of the Rights of Persons with Disabilities Law, including the following:
 - (1) Designing e-commerce platforms in accordance with the Web Content Accessibility Guidelines of the World Wide Web Consortium;
 - (2) adding automated identification technologies, smart card systems, voice and interactive systems, and automatic billing services as needed;
 - (3) adding educational sections.



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85. E-commerce business operators shall comply with the sales process according to the terms of use of the e-commerce platform and with the operational requirements. They shall not engage in any illegal activities regarding goods or services according to the laws in force.

Part 13 Cyber security

86. E-commerce business operators shall manage digital security risks well. Security measures shall be implemented to reduce or mitigate any unwanted side effects associated with consumers participating in e-commerce transactions. In addition, the provisions of the relevant laws of Myanmar shall be followed.
87. E-commerce business operators shall provide consumers with information about security and authentication mechanisms. The steps of the process (mechanism) shall be carried out in clear and easy Burmese or English to help users determine the amount of risk.
88. An e-commerce business operator shall implement appropriate and effective security measures in order to minimise cyber security risks. In so doing, important activities shall be given special attention, such as data management, authentication process steps (mechanism), data sent (data in transit), data retained (data at rest), protection of personal data and payment information, security controls, and network security.
89. The contents used in the e-commerce business shall be systematically maintained and protected according to the security level, and specialised management shall be implemented to prevent security breaches.
90. E-commerce business operators shall cooperate with relevant government departments and organisations in activities aimed at improving policy frameworks regarding cyber security. If necessary, they may cooperate with private organisations.

Part 14 Tax collection and determination of the minimum value

91. E-commerce business operators shall pay taxes that they have to pay according to the laws in force, in particular the Income Tax Law, Specific Goods Tax Law, Myanmar Stamp Act, Rules and Regulations, Commercial Tax Law, Myanmar Companies Law, Myanmar Investment Law, Union Taxation Law, customs laws, Myanmar Special Economic Zone Law, and they are entitled to obtain tax benefits in accordance with the provisions of the relevant law.
92. An e-commerce business operator shall provide information to the relevant departments concerning compulsory tax collection as required by the Tax Administration Law and procedures.



93. An e-commerce business operator shall comply with the procedures for customs duty collection established by the Customs Department, including verification of the customs duty rate and minimum value specifications.

Part 15

Conducting cross-border e-commerce transactions

94. An e-commerce business operator shall comply with the applicable laws, notifications, orders, directives and procedures of Myanmar throughout the process of conducting cross-border e-commerce transactions.
95. E-commerce business operators shall comply with the Foreign Exchange Management Regulations and instructions issued by the Central Bank of Myanmar when making payments using foreign currency for cross-border e-commerce transactions, and shall make payments only in Myanmar kyats for domestic transactions.
96. An e-commerce business operator who conducts cross-border e-commerce business shall comply with regional and international trade agreements and bilateral agreements of which Myanmar is a member.

Part 16

Taking action

97. An e-commerce business operator failing to comply with the relevant legal provisions contained in the parts of these guidelines shall be taken action against in accordance with the laws in force.

Part 17

Provisions on e-commerce in agreements signed by Myanmar

98. It is the responsibility of the e-commerce business operators to comply with the implementation activities of the relevant government departments/government organisations in accordance with the e-commerce provisions in agreements signed by Myanmar.

Part 18

Amendments

99. The Ministry of Commerce may amend the provisions of these guidelines from time to time according to relevant laws in force and will in a timely manner change or cancel provisions if the relevant law changes. Such action will be notified.

[Appendices omitted. Please contact us if you are interested in any particular appendix.]



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About Lincoln Legal Services (Myanmar) Limited

Lincoln Legal Services (Myanmar) Limited provides the full range of legal and tax advisory and compliance work required by investors. We pride ourselves in offering result-oriented work, high dependability and a fast response time at very competitive prices. Please do not hesitate to contact us:

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