

LEGAL UPDATES (October 14th, 2019)

In these legal updates, we would like to send clients the legal updates on some following issues:

- The Government will apply penalty to unfair competition acts in business activities.
- Significant acts considered to be the act of administrative violations on competition.

1. **The Government will apply penalty to unfair competition acts in business activities**

On 26th September 2019, the Government issued Decree No. 75/2019/ND-CP regulating on imposition of penalties for violations in the field of competition.

This Decree is applied to organizations, business individual, industry associations in Viet Nam; relevant domestic and foreign agencies, organizations and individuals.

2. **Significant acts considered to be the act of administrative violations on competition**

- a. The act of violating against regulations on competitive limited agreements;
- b. The act of violating against regulations on Abuse of a dominant position, abuse of monopoly position;
- c. The act of violating against regulations on economic concentration;
- d. The act of violating against regulations on unfair competition practices:
 - i. Trade secret infringement;
 - ii. Forcing customers or business partners of other enterprises through threatening or coercion so that they do not enter in transaction or stop transaction with such enterprises;
 - iii. Discrediting competitors through directly or indirectly providing untruthful information about such competitors which negatively impacts their goodwill, financial status or business operation;
 - iv. Disrupting competitors' business through directly or indirectly interrupting or disrupting their legitimate business operation;
 - v. Illegally luring customers through:
 - Providing false or misleading information to customers about the enterprise or products, services, sale promotion programs, transaction conditions related to the products or services provided by the enterprise to attract customers of competitors;

- Comparing products, services of the enterprise with those of the same kinds of competitors without evidence to prove the comparison.
- vi. Sale of goods and services below cost that drives or probably drives competitors out of the market.

e. Other violating acts of competition law.

According to this Decree, depending on acts, nature and seriousness, violating individuals and organizations may be sanctioned as administrative violations in the field of competition as follows:

- Warning;
- Fine with the maximum amount of VND 2,000,000,000,000;
- Deprive the right to use licenses, practice certificates or suspend operations for 06 months to 12 months;
- Confiscation of material evidences and means used for commission of violations;
- Confiscate material evidence and means used for commission of violations;
- Confiscate business registration or similar documents;

Apart from the sanctions specified above, individuals, organizations that committed violations shall also be subject to one or several of the following remedial measures:

- Force to publish the rectification;
- Force to remove the elements of violation from goods, packages, business means and items;
- Force to restructure the enterprises that abuse their positions of market dominance or monopoly;
- Force to remove the illegal provisions from business contracts, agreements or transactions;
- Force to split and resale the portion or the entire capital and assets of the enterprises established after the economic concentration;
- Force to be under the control of the competent state agencies on purchase and sale prices of goods or services or other transaction conditions in contracts of mergers or acquisitions or enterprises newly established after the economic concentration;
- Force to provide all information and documents;
- Force to restore technical and technological development conditions that the enterprises have hindered;
- Force to remove the unfavorable conditions have been imposed on customers;
- Force to restore the terms or the contracts which has been changed or canceled without plausible reasons;
- Force to restore the original conditions.

Decree No. 75/2019/ND-CP comes into effect **on 1st December 2019**.

We hope this short Letter of legal updates would bring you useful information.

Best regards.

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