

LEGAL UPDATES (December 23rd, 2019)

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

- The new Decree 75: next steps to enhance the new Competition Law 2018?

In efforts to enhance the implementation of the new Law on Competition 2018, the Vietnamese government has issued the new Decree No. 75/2019/ND-CP on sanctioning of administrative violations in the field of competition (“Decree 75”) in order to provide guidance on administrative penalties for violations against the updated Law on Competition.

In comparison to the old Decree no. 71/2014/ND-CP (“Decree 71”) guiding on Law on Competition on imposition of penalties for violations against current law on competition, Decree 75 indicates the violations against law on competition, which will bear administrative penalties, namely:

- Violations against regulation on competition restraint agreement;
- Violations against regulation on abuse of dominant position, monopolization;
- Violations against regulation on market concentration;
- Violations against regulation on unfair competition;
- Other violations against law on competition relating to: (i) providing information and documents; (ii) investigation and handling of competition cases; (iii) competition restraint agreement before Decision on exemption issued by competent authorities; (iv) providing information, encouraging, urging, coercing or arranging for enterprises to perform acts of restricting competition and unfair competition.

According to the Decree 75, violators may also be subject to remedial measures, such as public correction, restructuring of an enterprise which abuses its dominant market position or monopoly position, or removal of illegal clauses from an agreement or contract. Some key provisions on administrative penalties in Decree 75 are as follows:

- The maximum fine for violations on competition-restricting agreements and abuse of market dominance/monopoly position is 10% of the violating company’s total turnover in the relevant market in the financial year immediately preceding the year in which the violations were committed, but shall be lower than the lowest level of fines applicable to violations of corresponding regulations in the Penal Code.
- The maximum fine for violations of the provisions on economic concentration is 5% of the violating company’s total turnover in the relevant market in the financial year immediately preceding the year in which the violations were committed.
- The maximum fine for violations of the provisions on unfair competition is VND 2 billion (approximately US\$ 86,000).
- If the violating company’s total turnover in the relevant market in the financial year immediately preceding the year in which the violations were committed in items (a) and (b) above is 0, the fine will be imposed in the range of VND 100 million to VND 200 million (approximately US\$ 4,300 to US\$ 8,600).

Finally and importantly, Decree 75 seems to imply that Vietnamese competition rules apply to businesses abroad, if their conduct harms competition in markets in Vietnam. This Decree 75 enters into effect on 1st of December, 2019.

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

Best regards.

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Contacts:

HO CHI MINH CITY (Head office)

5th Floor, IMM Building
99-101 Nguyen Dinh Chieu, District 3
Ho Chi Minh City, Vietnam
SDT: +84-28-3899 8683
Email: info@apolatlegal.com
Website: www.apolatlegal.com

SINGAPORE (Affiliated office)

#26-10, SBF Center,
160 Robinson Road
Singapore 068914
Tel: +84-93-2014 986
Email: info@apolatlegal.com
Website: www.apolatlegal.com