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THAILAND

Newsletter

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An Overhaul of Advertisement Regulations under Thailand's Consumer Protection Act

After decades of enforcing regulations governing advertisement in general, the Committee on Advertisement under the Consumer Protection Act, B.E. 2522 (1979) (as amended) (the "CPA") repealed and replaced the notifications concerning puffery (statements of exaggeration) and guidelines for proof under the CPA, and issued a new regulation with enforcement starting on 14 January 2023, namely the Notification of the Committee on Advertisement Re: Guidelines on Use of Advertising Statements with Confirmation of Difficult-to-Prove Facts and Guidelines on Proof of Facts Concerning Advertising Statements, B.E. 2565 (2022) dated 2 September 2022 ("New Notification on Advertisement").

Major points and requirements of the New Notification on Advertisement can be summarized as follows:

DOs	DON'Ts
<ul style="list-style-type: none"> • Language: Significant information in the Thai language is mandatory and must be clearly seen, heard, or read, especially for digital advertising. • Sizing: Minimum font size of two millimeters for printed media, wording in commercial video and signboards is subject to specified ratio. • Color: Contrasting color of text and background. • Timing: Key supplementary statements must be superscripted and last at least five seconds. • Warranty: Warrantor, warranty period, scope, steps, and conditions must be fully stated. 	<ul style="list-style-type: none"> • Use misleading statements. • Use speed and rhythm that are difficult to be clearly heard. • Claim specifications which are contradictory to the actual product or service offered to consumer. • Disclaim in a manner that puts consumers in a position of disadvantage. • Persuade by relying on individual belief or inducing those in distress or in need of consolation.

DOs	DON'Ts
<ul style="list-style-type: none"> • Certification:Evidentiary documents must be in place for examination when using a claim relying on certification, whether by laboratory or other institutions, in Thailand or abroad. 	<ul style="list-style-type: none"> • Use certain wordings which may be unfair to the customers. For example: <ul style="list-style-type: none"> - The company reserves the right to change the price or conditions without advance notice. - The product image is only a sample which may not conform to what is available in the product series being offered under a promotional campaign. - Get instant effects, or noticeable results within seven days after use. - Providing service of performing rituals to get a lover back. - Refund guarantee for dissatisfaction. - Best-selling product, or First in the market. - Best, awesome, top-class, supreme, excellent. - Received award from ...

Key Notes:

- The New Notification on Advertisement applies to both business operators and advertisers.
- A business operator or advertiser bears the burden to prove any claim they use in advertisement.
- Evidentiary documents of certification must be shown to the regulator within 15 days of the receipt of notice of the regulator. Failing to do so may (i) cause the regulator to impose orders which include, among others, suspension of advertising and (ii) deem the business operator or advertiser to have knowingly used false statements which is an element of offense under the CPA.
- Although there is legislation governing advertisement of particular types of products and services, a catch-all provision under the CPA, where the CPA and its subordinate regulations will apply to the extent that they are not contrary or duplicative to such specific regulations, does exist. As a result, all sectors are recommended to observe this New Notification on Advertisement.

If you have any questions in relation to the topic raised in this briefing, please contact the authors listed in the left-hand column.

This publication is intended to highlight an overview of key issues for ease of understanding, and not for the provision of legal advice. If you have any questions about this publication, please contact your regular contact persons at Mori Hamada & Matsumoto or Chandler MHM Limited. If you should have any inquiries about the publications, or would like more information about Chandler MHM Limited, please contact bd@mhm-global.com.

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