

Competition & Antitrust and Trade

Key 2022 Developments Having an Impact on Consumer Protection Law in Singapore

2022 has seen various developments relating to consumer protection law. Not only have the authorities looked into strengthening dispute resolution processes in this regard, they have also looked at enhancing consumer protection in the e-commerce sphere. In addition, the Competition and Consumer Commission of Singapore ("**CCCS**") and the Consumers Association of Singapore ("**CASE**") have taken stern actions against retailers for engaging in unfair practices.

We summarise below some key developments in consumer protection law in Singapore in 2022. We also include some updates on legal developments in Australia (which holds a robust attitude towards consumer protection law) which potentially influence how consumer protection law is enforced in Singapore.

A. CCCS and CASE Taking Actions Against Unfair Practices in Singapore

1. In 2022, CCCS and CASE continued stepping up regulatory enforcement against businesses in different industries for engaging in unfair practices prohibited under the Consumer Protection (Fair Trading) Act ("**CPFTA**"). These include the following:
 - (a) On 14 April 2022, CCCS accepted undertakings and closed investigations against a business involved in retailing laptops and its former authorised reseller in Singapore for making false and misleading claims regarding the screen refresh rates of four models of gaming laptops on the company website and another online platform. Both businesses have undertaken to cease the above practices and implement internal compliance policies to prevent future violations of the CPFTA.
 - (b) On 6 April 2022, CASE issued a consumer alert against a direct seller of alkaline water systems. This was pursuant to complaints of unfair practices such as false representations regarding payment options and product descriptions, failure to follow up on promises of replacements and maintenance services and avoiding consumers with product issues. CASE has referred the matter to CCCS for further investigation under the CPFTA.

Client Update: Singapore

2022 DECEMBER

LAWYERS
WHO
KNOW
ASIA

Competition & Antitrust and Trade

2. These examples reflect that seemingly innocent practices intentions can potentially be considered as unfair practices. One way to reduce this risk is to ensure that all employees in consumer-facing or marketing roles are regularly reminded of what may be considered as unacceptable behaviour. Providing them with training or a quick one pager to guide them will aid tremendously.

B. ACCC imposing Heavy Penalties in Australia for Misleading Statements to Consumers

1. The Australian Federal Court imposed heavy penalties on businesses for misleading statements allegedly made by parties pursuant to proceedings brought by the Australian Competition & Consumer Commission ("**ACCC**"):
 - (a) In November 2022, Australia's three largest internet service providers ("**ISPs**") were ordered to pay penalties totalling AUD33.5 million for making false or misleading representations to consumers. When promoting certain NBN (Australia's National Broadband Network) internet plans, the ISPs had represented that consumers would be notified within a reasonable timeframe if the speeds could not be reached on their NBN connection, and that consumers would then have options to move to a cheaper plan. However, the representations were false or misleading as the ISPs had inadequate systems in place to ensure that they would do this.
 - (b) Separately, a retailer selling dental aligners to consumers in Australia was ordered to pay penalties totalling AUD3.5 million, for making false or misleading representations to consumers in relation to their teeth aligners and related treatment. The statements represented that consumers may be entitled to reimbursement(s) from their private health fund, though 98.5% of the private health insurance market do not cover this. SmileDirectClub was also ordered to compensate affected consumers.
2. These Australian examples highlight the potential pitfalls in making inaccurate representations to consumers. Even though they were not borne out of ill-intentions, the persons making such representations will be penalised if the inaccurate representations would potentially cause the consumers to suffer.

C. ACCC Publishes Fifth Digital Platform Services Inquiry Interim Report

1. On 11 November 2022, the Australian Competition and Consumer Commission ("**ACCC**") published its fifth Digital Platform Services Inquiry interim report ("**Report**"). The Report is part of the ACCC's ongoing inquiry into markets for the supply of digital platform services in Australia.

Client Update: Singapore

2022 DECEMBER

Competition & Antitrust and Trade

2. In the Report, ACCC highlighted concerns about a range of consumer and competition issues with digital platforms, including scams, harmful apps, fake reviews, inadequate dispute resolution and instances of anti-competitive conduct. ACCC is of the view that current competition and consumer laws in Australia are not sufficient and has recommended the introduction of new laws and measures to address consumer and competition issues:
 - (a) **Consumer protection measures:** ACCC recommends targeted measures to protect consumer and business users of digital platforms against scams, harmful apps and fake reviews. It also recommends minimum standards for digital platform dispute resolution processes and the ability for users to escalate complaints to an independent ombuds. These consumer protections should apply to all digital platforms that supply search, social media, online private messaging, app stores, online retail marketplaces and digital advertising.
 - (b) **Competition ex-ante measures for certain digital platforms:** ACCC recommends the introduction of legally binding codes of conduct, applied service-by-service, which require certain designated digital platforms to address issues including anti-competitive self-preferencing, tying and exclusive pre-installation agreements. It is also recommended that new obligations be put in place in these codes to improve consumer switching, information transparency and interoperability between different services, and to better protect business users of digital platform services. These codes of conduct are intended to work alongside Australia's existing competition laws to address anti-competitive conduct, unfair treatment of business users, and barriers to entry and expansion by potential rivals. It is proposed that the enabling legislation include a list or define the types of digital platform services that could be subject to such codes, and there be a process to allow the list or definition to be amended over time.
3. Market studies and sector inquiries tend to be one of the first steps that herald greater industry regulation. This was the pre-cursor to the development of ex-ante rules under the Digital Markets Act that controls digital market gatekeepers in the EU, and it appears that ACCC is also going down a similar path of imposing ex-ante regulation on designated digital platforms.
4. Thus, it is important for businesses, particularly digital platforms, to keep a close eye on such market studies and regional developments to have a good view of regulations developing in the horizon for their operations in Singapore and the region.

D. CCCS' Guide to Contractors on Fair Trading Practices for Renovation Industry

1. On 5 May 2022, CCCS published a Guide on Fair Trading Practices for the Renovation Industry. The guide addresses increased consumer complaints to CASE for unfair practices by suppliers of interior design and renovation services ("**Contractors**"), which are prohibited under the CPFTA. The guide provides five fair trading practices for Contractors to adopt:

Client Update: Singapore

2022 DECEMBER

Competition & Antitrust and Trade

- (a) Ensuring renovation timelines are mutually agreed with consumers;
 - (b) Providing consumers with transparent pricing (with no hidden costs);
 - (c) Ensuring accurate descriptions of goods and services to be provided to consumers;
 - (d) Stating clear policies for exchange, repair and refund in renovation contracts; and
 - (e) Obtaining express consent from consumers before making any amendments to renovation contracts.
2. The guide comes on the back of increased efforts by CASE and CCCS to improve consumer protection in Singapore. CASE had also issued a Company Alert against three renovation contractors on 11 April 2022 for failing to complete renovation works within agreed timelines, despite substantial upfront payments from consumers.
 3. Businesses, regardless of their size, must familiarise themselves with the guide to ensure their standard term contracts and marketing strategies comply with the guide. It would also be useful for a business to apply for the CASE accreditation process to obtain the CaseTrust mark so that the business is recognised as being reliable in its consumer dealings.

E. Enhanced Access to CASE's Dispute Resolution Services

1. On 1 July 2022, the National Trades Union Congress ("**NTUC**") signed a Memorandum of Understanding ("**MOU**") with CASE. NTUC has indicated that they will absorb membership fees and administration charges for filing disputes with CASE on behalf of their over 1 million union members. NTUC union members will only need to provide CASE with their NTUC Card to enjoy the fee waiver. The increased accessibility will potentially encourage an increase in filing of disputes with CASE.
2. Hence, a business should review and tighten its promotional/marketing practices for continued compliance with consumer protection laws as well as provide adequate training for its staff to manage any disputes before they reach CASE.

F. Enhanced Measures to Combat E-Commerce Scams

1. On 14 May 2022, the Inter-Ministry Committee on Scams ("**IMCS**") launched the "E-commerce Marketplace Transaction Safety Ratings" ("**TSR Rating**") and updated Technical Reference 76 on Guidelines for Electronic Commerce Transactions ("**TR 76**"). The TSR Rating ranges from one to four ticks, with the ticks representing the level of transaction safety offered by major e-commerce marketplaces, and will be published on a TSR microsite. The TR 76 is a guideline based on industry best practices for e-commerce marketplaces as well as retailers to better secure online transactions, ensure the authenticity of merchants using these marketplaces, improve customer support and aid with enforcement against e-commerce scams. IMCS has indicated that compliance will allow for a better TSR Rating.

Client Update: Singapore

2022 DECEMBER

Competition & Antitrust and Trade

2. The above measures will increase transparency on transaction safety and will potentially create downstream effects, such as more stringent requirements on merchants, whether they sell online via the major e-commerce marketplaces or not. This means that businesses should review the revised TR 76 guidelines to assess whether they need to change any of their practices or conduct any training.

G. IMDA – SMS Sender ID Registry ("SSIR") & Anti-Scam Filter Solution

1. In March 2022, the Info-Comm Media Development Authority ("IMDA") introduced voluntary registration under the SSIR. The SSIR aims to safeguard consumers from SMS scams by blocking such messages originating from non-registered SMS Sender IDs.
2. This will be made mandatory as announced on 15 August 2022, for organisations using Sender IDs ("**Mandatory Registration**"). Please note that the Mandatory Registration requirement will take effect on 31 January 2023.

H. "Nutri-Grade" Requirements from End-2022 and to be Extended to Freshly Prepared Drinks by End-2023

1. From 30 December 2022, "Nutri-Grade" beverages sold in Singapore in prepacked form and from automatic beverage dispensers are subject to new labelling requirements. The "Nutri-Grade" system rates beverages from A to D, based on increasing levels of sugar content and saturated fat content. Beverages with a "D" grade face further advertising prohibitions across all media platforms, except at point-of-sale platforms.
2. The Ministry of Health ("**MOH**") will be issuing further regulations in mid-2023 regarding the application of the "Nutri-Grade" system to freshly prepared beverages. These regulations will take effect by end-2023.
3. One risk area concerns advertisements. The current content, location etc of the advertisements for beverages with a "D" grade will need to be relooked. Hence, businesses in this industry will need to review and take appropriate steps with their marketing teams as necessary. This does require time and hence an early start is critical.

Conclusion

As can be seen from a sampling of the 2022 developments, consumer protection remains a key concern in Singapore and the trend is towards increased enforcement efforts by regulators to protect consumers.

Contacts



Kala Anandarajah
Partner
Head, Competition &
Antitrust and Trade

T +65 6232 0111

kala.anandarajah@rajahtann.com



Alvin Tan
Partner
Competition & Antitrust and
Trade

T +65 6232 0904

alvin.tan@rajahtann.com



Joshua Seet
Partner
Competition & Antitrust and
Trade

T +65 6232 0104

joshua.seet@rajahtann.com

Please feel free to also contact Knowledge and Risk Management at eOASIS@rajahtann.com

Our Regional Contacts

RAJAH & TANN | *Singapore*

Rajah & Tann Singapore LLP
T +65 6535 3600
sg.rajahtannasia.com

R&T SOK & HENG | *Cambodia*

R&T Sok & Heng Law Office
T +855 23 963 112 / 113
F +855 23 963 116
kh.rajahtannasia.com

RAJAH & TANN 立杰上海

SHANGHAI REPRESENTATIVE OFFICE | *China*

**Rajah & Tann Singapore LLP
Shanghai Representative Office**
T +86 21 6120 8818
F +86 21 6120 8820
cn.rajahtannasia.com

ASSEGAF HAMZAH & PARTNERS | *Indonesia*

Assegaf Hamzah & Partners

Jakarta Office
T +62 21 2555 7800
F +62 21 2555 7899

Surabaya Office
T +62 31 5116 4550
F +62 31 5116 4560
www.ahp.co.id

RAJAH & TANN | *Lao PDR*

Rajah & Tann (Laos) Co., Ltd.
T +856 21 454 239
F +856 21 285 261
la.rajahtannasia.com

CHRISTOPHER & LEE ONG | *Malaysia*

Christopher & Lee Ong
T +60 3 2273 1919
F +60 3 2273 8310
www.christopherleeong.com

RAJAH & TANN | *Myanmar*

Rajah & Tann Myanmar Company Limited
T +95 1 9345 343 / +95 1 9345 346
F +95 1 9345 348
mm.rajahtannasia.com

GATMAYTAN YAP PATACSIL

GUTIERREZ & PROTACIO (C&G LAW) | *Philippines*
Gatmaytan Yap Patacsil Gutierrez & Protacio (C&G Law)

T +632 8894 0377 to 79 / +632 8894 4931 to 32
F +632 8552 1977 to 78
www.cagatlaw.com

RAJAH & TANN | *Thailand*

R&T Asia (Thailand) Limited

T +66 2 656 1991
F +66 2 656 0833
th.rajahtannasia.com

RAJAH & TANN LCT LAWYERS | *Vietnam*

Rajah & Tann LCT Lawyers

Ho Chi Minh City Office
T +84 28 3821 2382 / +84 28 3821 2673
F +84 28 3520 8206

Hanoi Office

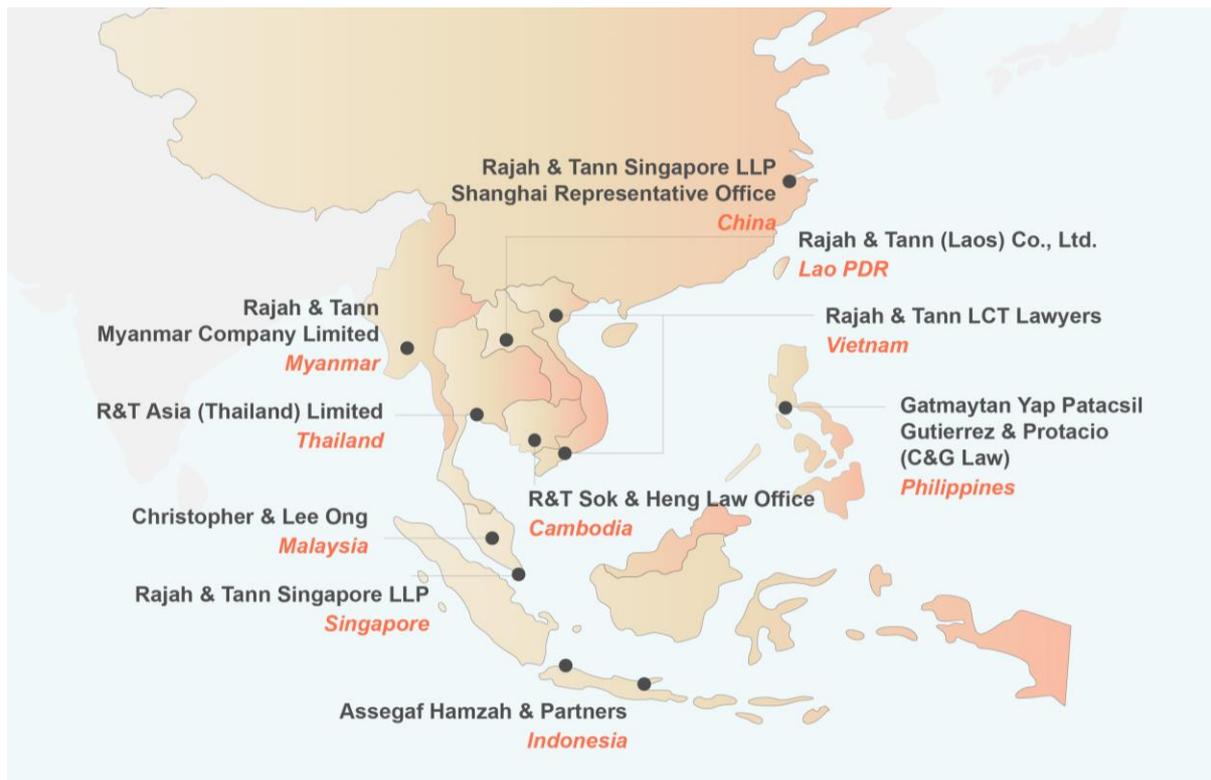
T +84 24 3267 6127
F +84 24 3267 6128
www.rajahtannlct.com

Rajah & Tann Asia is a network of legal practices based in Asia.

Member firms are independently constituted and regulated in accordance with relevant local legal requirements. Services provided by a member firm are governed by the terms of engagement between the member firm and the client.

This update is solely intended to provide general information and does not provide any advice or create any relationship, whether legally binding or otherwise. Rajah & Tann Asia and its member firms do not accept, and fully disclaim, responsibility for any loss or damage which may result from accessing or relying on this update.

Our Regional Presence



Rajah & Tann Singapore LLP is one of the largest full-service law firms in Singapore, providing high quality advice to an impressive list of clients. We place strong emphasis on promptness, accessibility and reliability in dealing with clients. At the same time, the firm strives towards a practical yet creative approach in dealing with business and commercial problems. As the Singapore member firm of the Lex Mundi Network, we are able to offer access to excellent legal expertise in more than 100 countries.

Rajah & Tann Singapore LLP is part of Rajah & Tann Asia, a network of local law firms in Cambodia, China, Indonesia, Lao PDR, Malaysia, Myanmar, the Philippines, Singapore, Thailand and Vietnam. Our Asian network also includes regional desks focused on Brunei, Japan and South Asia.

The contents of this Update are owned by Rajah & Tann Singapore LLP and subject to copyright protection under the laws of Singapore and, through international treaties, other countries. No part of this Update may be reproduced, licensed, sold, published, transmitted, modified, adapted, publicly displayed, broadcast (including storage in any medium by electronic means whether or not transiently for any purpose save as permitted herein) without the prior written permission of Rajah & Tann Singapore LLP.

Please note also that whilst the information in this Update is correct to the best of our knowledge and belief at the time of writing, it is only intended to provide a general guide to the subject matter and should not be treated as a substitute for specific professional advice for any particular course of action as such information may not suit your specific business and operational requirements. It is to your advantage to seek legal advice for your specific situation. In this regard, you may call the lawyer you normally deal with in Rajah & Tann Singapore LLP or email Knowledge & Risk Management at eOASIS@rajahtann.com.