



The OTCC publishes Guideline on Credit Terms with SMEs

The Trade Competition Commission recently published a guideline on fair commercial practices relating to credit terms with small and medium enterprises (SMEs) under section 57 (unfair trade practices) of the Competition Act 2017. The guideline is intended to help reduce disparity and promote fair dealing with SMEs.

SMEs that fall within the scope of this guideline are those that produce products with up to 200 employees or annual revenue of not over THB 500 million; and those that provide services with up to 100 employees or annual revenue of not over THB 300 million.

Below is a summary of the guideline.

1. Fair credit term

Generally the credit term commences on the completion of delivery (with complete documentation). For consignment, credit term commences from the completion of sale in any quantity of products that has been agreed to or that is in accordance with the parties' past practices. A credit term with SMEs is presumed fair if it is not more than:

- a) 30 days for trading, manufacturing, and services relating to agricultural products or primary processed agricultural products (with non-complex manufacturing processes), unless parties have already agreed to a shorter credit term; or
- b) 45 days for other trading, manufacturing, and services, unless parties have already agreed to a shorter credit term.

Parties may agree to a different credit term, provided that the term can be justified with business, marketing, or economic reasons under the terms of the contract.



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2. Fair payment process

Business partners of SMEs must clearly inform SMEs of the payment processes (ordinary course of business), and the SMEs must provide evidence to confirm their SMEs status, namely documents on number of employees or income.

3. Unfair trade practices

The following conducts may be unfair trade practices:

- a) delay of payment beyond the credit term without justification;
- b) changes to the credit term or terms of the contract without justification or without 60 days of advanced notice;
- c) imposition of conditions in relation to credit terms which obstruct or create burden for SMEs.

The guideline was published in the Government Gazette on 18 June 2021 and will become effective on 16 December 2021. The draft of the guideline underwent public hearing during 8 February and 12 March of last year.

We Can Help

The Bangkok Trade Competition Group comprises seasoned lawyers with a deep knowledge and understanding of the local regulatory climate. We actively engage with regulators to help shape the regulatory and enforcement environment. The diversity of experience in our team affords our clients the benefit of effective assistance, in particular when dealing with competition investigations and litigation before the authorities and courts. We can assist clients with a range of services, including: Antitrust counseling and compliance; Compliance policy development; Merger control; Cartels; Unfair trade practice; Competition law health-check and audits; Legal and compliance training; and Anti-monopoly/Competition litigation, among others.

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