



Competition Law Dispute: Trade practices that unlawfully harm consumers

March 2025

Article 12 of the Competition Law outlines activities that restrict competition. Under this article, a total of 10 types of activities that are considered to negatively impact fair competition and consumer rights and therefore prohibited by law. Among these prohibited activities, businesses often turn to the courts in relation to *"use of trade practices that are contrary to legal interests and unlawfully harm consumers"*.

Therefore, to illustrate an example of disputes of this nature, this newsletter will present the Supreme Court's decision from March 20, 2019, along with the relevant decisions from the first instance and appellate courts, and explore how these courts have adjudicated the case.

Factual background

"S" LLC operates in the fuel import business and was accused by inspectors from the Authority for Fair Competition and Consumer Protection (AFCCP*) of engaging in *"use of trade practices that are contrary to legal interests and unlawfully harm consumers"*.

Specifically, the company's fuel stations limited diesel fuel sales to consumers with company-issued cards, capped sales at 100 liters per consumer, and did not accept cash payments for diesel fuel. Due to these circumstances, consumers filed complaints stating, "Some company's fuel stations are imposing restrictions." Accordingly, AFCCP inspectors conducted an inspection. As a result, the inspectors concluded that 'S' LLC violated Article 12.1.10 of the Competition Law by engaging in trade practices that unlawfully harm consumers and imposed a fine of 20,000,000 MNT. In light of this situation, "S" LLC has initiated court proceedings to annul the inspector's findings.

Court Decisions

The dispute was reviewed and decided by the first instance, appellate, and supreme courts, with all three levels concluding that "S" LLC violated the Competition Law.

The first instance court determined that some of "S" LLC's fuel stations imposed a 100-liter limit on diesel fuel sales, restricted sales exclusively to customers with company-issued cards, and did not accept cash payments, thereby limiting transactions to cardholders only. Furthermore, the court referenced information from the Mineral Resources and Petroleum Authority, which confirmed that both national and company fuel reserves were adequate. As a result, the court concluded that "S" LLC violated Article 12.1.10 of the Competition Law, which prohibits trade practices that are contrary to legal interests and unlawfully harm consumers.

** Changed to the Anti-Monopoly Agency from July 10, 2024*



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The **appellate court** reached a conclusion similar to that of the first instance court regarding the main issue of the dispute, on whether "S" LLC violated the Competition Law.

The **Supreme Court** also determined that "S" LLC violated Article 12.1.10 of the Competition Law by restricting their fuel sale activities. In other words, the court found that these restrictions constitute *"trade practice that is contrary to legal interests and unlawfully harm consumers"*.

Judicial Analysis

The courts at all three levels concluded that "S" LLC engaged in use of trade practices that are contrary to legal interests and unlawfully harm consumers. The rationale behind the decisions of both the first instance and supreme courts is outlined below.

Summary of court decisions

"The claimant, "S" LLC, argued that these activities were not aimed at restricting competition, did not engage in trade practices that harm consumers. The claimant also noted that not every person approaching the company for goods becomes a direct consumer, thus claiming not to have violated consumer rights.

However, this explanation is not justified because Article 12.10 of the Competition Law prohibits activities that are contrary to legal interests and unlawfully harm consumers. Additionally, Article 3.1.1 of the Law on Consumer Protection defines a "consumer" as an individual who orders, purchases, or uses goods, services, or work not for production or business purposes, but for personal, family, or household needs.

Therefore, in addition to business entities that have fuel sales contracts with "S" LLC and cardholder consumers, ordinary citizens, businesses, and organizations seeking to purchase fuel are also considered consumers. Consequently, the company's fuel stations refusing to sell fuel for cash and serving only their cardholders infringes upon the legitimate interests of the consumers. Thus, "S" LLC's actions are deemed to violate Article 12.1.10 of the Competition Law."

In brief, the court ruled that it was unjustified for "S" LLC to refuse to sell fuel to individuals and businesses seeking to purchase fuel, despite the presence of sufficient reserves, and this activity constitutes a trade practice that unlawfully harms consumers.

Considerations

In Mongolian court practice, unjustified price increases or restricting product access to specific consumers in highly regulated sectors fall under the above-mentioned prohibited activities. Therefore, it is crucial for businesses to consider these regulations when making business decisions to mitigate potential risks.

In light of these court decisions, businesses need to establish an internal mechanism to prevent anti-competitive practices outlined in Article 12 of the Competition Law and regularly monitor their regulatory compliance. Understanding what activities constitute "trade practices that are contrary to legitimate interests and unlawfully harm consumers" and identifying industry-specific risks are essential initial actions to stay compliant.



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Establishing a thorough competition compliance program designed to identify, prevent, and address potential anti-competitive practices is widely acknowledged as a best practice internationally. Additionally, understanding the consequences of violating Competition Law is crucial, as these can go beyond fixed fines and potentially include penalties of 3-6% of the annual revenue from the respective product.

Let's talk!

For a deeper discussion on compliance with competition laws or any advice related to anti-competitive practices and activities, please contact us.

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If you wish to read the full version of the Supreme Court's decision dated March 20, 2019, please [click here](#).

Important Notice

The court decisions referenced in this newsletter were sourced from the public electronic database on court decisions. We were not involved in the proceedings of these disputes and have not reviewed the parties' submissions or the comprehensive case file. Therefore, please note that we have not conducted any detailed analysis of the disputes and do not guarantee the accuracy or completeness of this newsletter.



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