

**The Trade Competition Commission Notice on
Guidelines for the Assessment of Unfair Trade Practices in Franchising
(No. 3)**

Whereas it is necessary to amend the Trade Competition Commission Notice on Guidelines for the Assessment of Unfair Trade Practices in Franchising, dated 30 October B.E. 2562, and its subsequent amendments, to be more effective;

By the virtue of Section 17 (3) of the Trade Competition Act B.E. 2560, the Trade Competition Commission hereby announces the Notice as follow:

Article 1: This Notice shall be effective on the following day after the date of being published in the Government Gazette onwards.

Article 2: The provision in Article 4 of the Trade Competition Commission Notice on Guidelines for the Assessment of Unfair Trade Practices in Franchising, dated 30 October B.E. 2562 in which being amended by the Trade Competition Commission Notice on Guidelines for the Assessment of Unfair Trade Practices in Franchising (No. 2), dated 13 August B.E. 2564, shall be annulled and replaced by the following:

“Article 4: For an expansion of a new branch of the franchised business being managed and operated exclusively by a franchisor itself, or by any licensed franchisee or any other person to operate it – to uphold fairness and refrain from causing any harm to any franchisee under Section 57 of the Trade Competition Act B.E. 2560 (2017), a franchisor shall notify to the franchisee(s) who have its branch(es) in nearest vicinity and those existing franchisee(s) shall have a priority to be offered to consider taking a license to operate that proposed branch, in which the franchisor shall allow a reasonable time of at least 30 (thirty) days for the prospective franchisee(s) to reply, unless the existing franchisee(s) did have unsatisfactory performance below the franchisor’s explicit criteria and being notified of such poor performance in advance;

To assess the area of nearest vicinity per the first paragraph, demand for products or services in relevant geographical area and competitive constraint(s) shall be considered together;

For an operation of franchise in a form of area development whereby a franchisor grants rights to operate a franchise to a franchisee within a mutually agreed designated area and a

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franchise agreement, or an auxiliary agreement supplementary to the franchise contract, containing clauses regarding the exclusive branch expansion in which prevent the right to open a new branch to be granted to a franchisee in the nearest vicinity with priority, the franchisor may grant the right to open a new branch to a suitable franchisee given that the reasonable business, marketing, or economic rationale could be heard.”

Article 3: Any on-going proceeding undertaken by the Trade Competition Commission or the Trade Competition Commission of Thailand on the day prior to the date of this Notice’s effectiveness shall be proceeded as described by the Trade Competition Commission Notice on Guidelines for the Assessment or the Assessment of Unfair Trade Practices in Franchising (No. 2), dated 13 August B.E. 2563 (2020), until it is completed.

This Notice is announced on 13 July B.E. 2564 (2021)

Professor Sakon Varunyuwatana

Chairperson of The Trade Competition Commission

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Erratum

The Trade Competition Commission Notice

On Guidelines for the Assessment of Unfair Trade Practices in Franchising (No. 3) being published in the Royal Gazette – Notice and General Publications

Volume 138 Special Section 192 D 19 August B.E. 2564 (2021)

Page 47 (Article 2 Line 4 reads “B.E. 2564” (2021) shall be “B.E. 2563” (2021))

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