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Doing business in Singapore

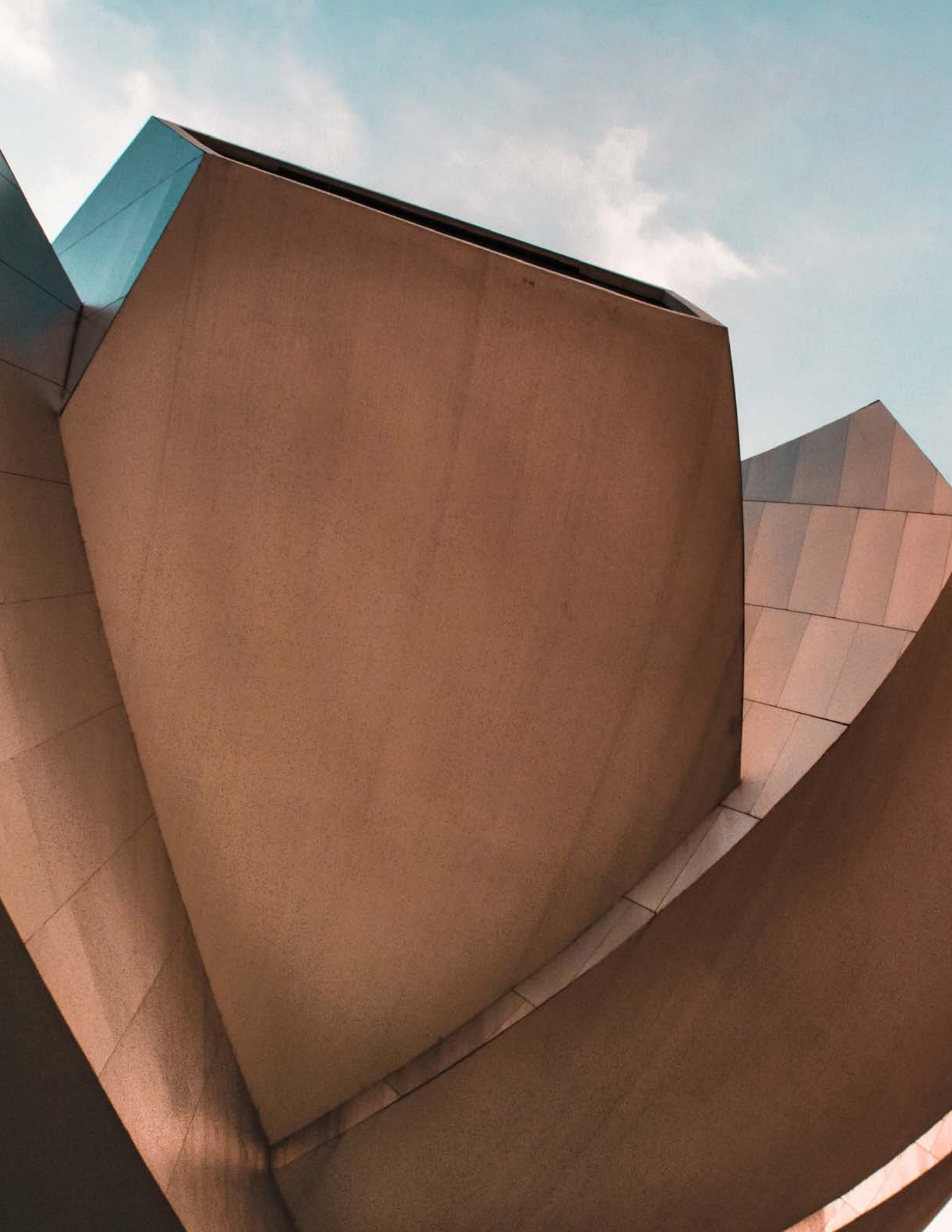
Consumer Sector 2020





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Introduction

In 2019, Singapore was ranked no. 2 for “*Best Country in the World to do business*” by the World Bank. Singapore is seen as a gateway to the Asian markets, where spending by 3.2 billion middle-class consumers could hit US\$55 trillion by 2030. Attuned to the similarities and differences between Western and Asian consumers, as well as the diversity within Asia, Singapore has been the choice of many multinational corporations in the consumer sector that have set up their regional headquarters here. There are many reasons for this, including the openness of Singapore’s economy, its general financial stability, government incentives, extensive network of double tax treaties, strong infrastructure, and reputation for fairness and impartiality in commercial law. While Singapore is known for its pro-business stance, the country also has an advanced regulatory framework which provides a variety of protections for consumers, but is, at the same time, designed to ensure business competition is still able to thrive and innovation is encouraged.

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Consumer Protection

The Consumer Protection (Fair Trading) Act (Cap. 52A) (the CPFTA) was established to provide legislative protection for consumers in Singapore. The Competition and Consumer Commission of Singapore is the regulatory authority which administers and enforces the CPFTA.

The CPFTA provides consumers with recourse against a supplier for unfair practices or where goods or services provided do not conform to contract. The CPFTA also seeks to regulate the behavior of suppliers, including prohibiting suppliers from making false or misleading misrepresentations concerning the need for goods or services, charging prices that are substantially higher than estimated to the consumer without the consumer's express agreement, exerting undue pressure or influence on the consumer to enter into a transaction, or including in an agreement terms or conditions that are harsh, oppressive, or excessively one-sided so as to be unconscionable.

Singapore's "Lemon Law," which allows a consumer to make a claim for a defective product within six months of having purchased the item and obliges the seller of the product to either repair or replace the item for the consumer free of charge, or refund or reduce the price of such product, can also be found in the CPFTA.

A consumer can bring a claim against a supplier for unfair practices in the Small Claims Tribunals (SCT), subject to certain restrictions. In an action in the SCT, lawyer representation is not permitted – the parties present their cases before a registrar without lawyer representation, thereby saving on legal costs. Alternatively, if the SCT does not have the jurisdiction to hear a consumer's claim, the consumer can also commence a civil suit in the State Courts or the High Court under the CPFTA.

In addition, an affected consumer may also file a complaint with the Consumers Association of Singapore (CASE) to report a supplier that has engaged in an unfair practice. CASE is empowered to invite the supplier to enter into a voluntary compliance agreement, which may require the supplier to compensate any consumer who has suffered loss or damage as a result of the unfair practice, reimburse CASE for any costs or expenses incurred by it, and publicise the voluntary compliance agreement.





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Product Regulation

Product regulation and liability issues span a number of laws and regulations in Singapore. Depending on the nature of the goods, they will be governed by different regulations and policed by a different regulator.

Of note are the Consumer Protection (Consumer Goods Safety Requirements) Regulations 2011 (the CGSR), which regulate a number of general consumer goods and is administered and enforced by Enterprise Singapore. The CGSRs aim to protect consumers by requiring general consumer goods such as toys, children's products, apparel, sports and recreation products, and furniture to meet specific international safety standards, including those of the International Organization for Standardization, the European Committee for Standardization and ASTM International. Enterprise Singapore is empowered to prevent the sale of goods that do not meet the safety standards set out in the CGSRs and can require companies to inform users about potential dangers of using such goods. In the event of non-compliance, Enterprise Singapore has the power to fine and/or imprison the person or company involved.

Food and beverages are broadly governed by the Sale of Food Act (Cap. 283) and the Food Regulations issued pursuant to such Act. Responsibility for maintaining the standards set out by these regulations falls under the purview of the Singapore Food Agency, a statutory board newly established in April 2019.

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Litigation

Singapore boasts a world class legal system in the form of an effective multi-tiered court system, in addition to well-established alternate dispute resolution institutions such as the Singapore International Arbitration Centre and the Singapore Mediation Centre. Based on a 2019 Rule of Law Index, Singapore is the world's top ranking country for order and security and the region's top ranking country in the areas of regulatory enforcement, absence of corruption, and civil justice.

In addition to the regulatory measures pertaining to consumer protection and product regulation, consumers in Singapore also have ample legal recourse to enforce and protect their legal rights through civil litigation. Under the common law system in Singapore, consumers can exert and enforce their legal rights against product sellers and suppliers who are deemed to have breached their general duty of care to avoid acts or omissions which can reasonably be foreseen to cause harm to the consumers or their property. Where a contract for sale, hire, or purchase exists, consumers can also enforce their legal rights through litigation for misrepresentation or breach of any express or implied terms in the contract.

Consumers who have been the subject of unfair practices can also bring a legal claim against the offending supplier under the CPFTA.







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Intellectual Property

Singapore is consistently ranked amongst the top countries in the world with respect to protection and enforcement of intellectual property rights (IPRs). In a recent IPR Index report, Singapore was ranked the third best country in the world in IP protection perception, as well as amongst the region's best in copyright protection. In addition, Singapore is also a member of the Madrid International Trademark System, which ensures the efficient recognition and registration of internationally registered trademarks in Singapore. In the near future, consumers can also look forward to further improvements to the current IPR protection regime. The recent passing of the Intellectual Property (Dispute Resolution) Bill further enhances the standing of Singapore as a Global IP Hub in Asia as well as a hub for international IP Disputes. The proposed changes to the present copyright laws will take into account the current digital environment and support individuals and businesses in this environment.

Consumers in Singapore have ample legal recourse against IPR offenders, by virtue of the strict and business-centric intellectual property laws in Singapore. For instance, civil infringement of IPRs such as copyright and trademarks can be made out without needing to show any requisite intention by the infringer to infringe. The Court of Appeal, the highest court of the land, has also confirmed in a recent decision that middlemen traders can be found liable of the tort of passing off if they put into circulation goods which are inherently likely to deceive ultimate consumers, even if the immediate purchasers are not deceived. In addition to civil liabilities for IPR infringement, potential criminal liabilities under the Copyright Act and the Trade Marks Act also act as a powerful deterrent to prevent commercial dealing of goods infringing on IPRs.

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Tariffs and Customs

Singapore imports and exports are governed by three main pieces of legislation – the Customs Act (Cap. 70), the Goods and Services Tax Act (Cap. 117A), and the Regulation of Imports and Exports Act (Cap. 272A). Any imported goods will be subject to Singapore goods and services tax (GST) and certain goods, such as intoxicating liquors and tobacco products, are also liable for additional customs duties.

Singapore GST is currently levied at 7 percent, one of the lowest consumption tax rates in the world today. In 2018, the Singapore Minister of Finance announced plans to raise GST to 9 percent sometime between 2021 and 2025, but noted that the exact timing of such GST hike will depend on the state of the Singapore economy, how much expenditures grow, and how buoyant existing taxes are. The uncertainty of the start date, while challenging, also gives consumer companies an opportunity to plan ahead to consider how they will address potential issues, such as how the GST hike could affect their cash flows, pricing and invoicing, existing contracts, accounting systems, and procedures.

Based on the current GST regime, services provided by a supplier based in Singapore are subject to GST while the same services supplied by a supplier based outside Singapore are not. To level the GST treatment for all services consumed in Singapore, the Minister for Finance announced that the following regimes will be implemented from 1 January 2020 to tax imported services: (i) a reverse charge regime for business-to-business supplies of imported services, whereby all local GST-registered businesses are required to account to the Inland Revenue Authority of Singapore (IRAS), GST on services procured from overseas suppliers, as if the local businesses were the suppliers (with the exceptions of certain excluded services); and (ii) an overseas vendor registration regime for business-to-consumer supplies of imported digital services, whereby overseas vendors who have an annual global turnover exceeding S\$1 million and make business-to-consumer supplies of digital services to customers in Singapore exceeding S\$100,000 are required to register for GST in Singapore and, once registered, to charge and account for GST on business-to-consumer supplies of digital services made to customers in Singapore. For example, an overseas operator of an electronic marketplace may be regarded as the supplier of digital services made by the overseas suppliers through its marketplace. In such cases, the value of these services must be included to determine the GST registration liability of the business.

In light of the new GST regime taking effect in 2020, consumer companies should review their accounting systems and procedures and conduct training as required to ensure their businesses are and remain compliant.







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Data Privacy

The adoption of the Personal Data Protection Act 2012 (the PDPA) established a new data protection law that applies across all industries and sectors in Singapore. It is broadly drafted to apply to all organizations and natural persons that collect, use, or disclose the personal data of individuals in Singapore and seeks to regulate the flow and handling of such data, including the establishment of a do-not-call registry allowing individuals to register their telephone numbers to opt out of receiving marketing phone calls from organizations. The Personal Data Protection Commission is the government entity charged with updating and enforcing the PDPA. In July 2019, the agency issued advisory guidelines revising requirements under the PDPA from a compliance-based framework to an accountability-based framework, with organizations required both to undertake measures to meet PDPA obligations and to be able to demonstrate, when required, that they are meeting those obligations. In an increasingly connected and competitive digital economy, given the immense amount of data consumer companies collect on a daily basis and the huge opportunities data could bring to such businesses, consumer companies should make sure to stay ahead of the developing personal data legislation in Singapore.





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