

## Newsletter

August 2016

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## Pharmaceutical Company's Executives Charged in Criminal Compliance Investigation in Korea

The Seoul Western District Prosecutors' Office (the "**PO**") has indicted the former chief executive of the Korean office of a global pharmaceutical company and five of its former and current managers for offering illegal rebates to doctors. Fifteen doctors and six publishers of medical journals (the "**Publishers**") have also been indicted over suspected involvement in the said transactions.

Since 2011, an alleged KRW 2.6 billion (USD 2.3 billion) has been paid to doctors, in exchange for prescribing the company's drugs. The PO alleges that such payments had been made to doctors participating in seminars hosted by the indicted Publishers, under the guise of attendance fees in return for their participation. Under South Korean laws, drug companies cannot provide doctors with rebates or discounts for drugs which they prescribe.

This indictment indicates a fine line between accepted practices and illegal conduct of marketing activities by healthcare and pharmaceutical companies. Fees paid to doctors for participation in academic events will likely constitute an 'improper benefit' if it is clear that such payments were made to promote doctors' prescriptions of pharmaceutical products.

## Complaints to CASE About Singapore's Beauty Industry Remain High

In a recent media release, the Consumers Association of Singapore ("**CASE**") revealed that it had received 1664 complaints regarding the Beauty industry in 2015, a slight decrease from 1709 complaints the year before. Statistics from the past five years show that the two most common reasons for such complaints are the use of pressure sales tactics by beauty salons and the rendering of unsatisfactory services.

CASE is an appointed body that is able to enter into Voluntary Compliance Agreements ("**VCAs**") with businesses engaging in unfair practices, pursuant to section 8 of the *Consumer Protection (Fair Trading) Act* (Cap 52A) (the "**Act**"). Where businesses fail to comply with the VCAs, recourse is available to consumers under the Act.

The CaseTrust accreditation scheme for spa and wellness businesses has also played a significant role in implementing measures for fair trading. Accredited businesses must provide a five-day cooling-off period and a 'no selling' policy in the treatment room, to deter the use of pressure sales tactics.

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## AVA Recalls Taiwanese Bottled Milk Tea Over Unapproved Food Additive

The Agri-Food & Veterinary Authority ("**AVA**") has recalled a popular Taiwanese bottled milk tea, Chun Cui He Milk Tea, as it contains the food additive L-theanine. Approximately 1 million bottles of the drink have been sold since the brand was introduced in Singapore last month. The drinks are also sold in Taiwan, Hong Kong and Korea. The recall only affects the milk tea flavour, and not the latte flavour which is sold under the same brand.

L-theanine is an amino acid analogue which can be found in some plants. It is not on the current list of permitted food additives, under the Food Regulations of Singapore. The unapproved food additive was discovered after the AVA ran food safety tests on the product, following revelations that preliminary tests had been incomplete. Nonetheless, the AVA has clarified that there are no food safety risks associated with the recalled product.

The food additive is approved in countries such as Japan and can be found in dietary supplements sold in the United States. Germany has also banned the use of L-theanine in drinks.

Under section 49 of the *Sale of Food Act* (Cap 283), it is an offence to sell any food containing a prohibited substance. The penalty is a fine not exceeding SGD 5,000 (about USD 3,700). In the case of a second or subsequent conviction, the penalty is a fine not exceeding SGD 10,000 (about USD 7,400), and/or imprisonment for a term not exceeding 3 months.

Separately, the penalty for importing any food containing an unapproved food additive under the Food Regulations is a fine not exceeding SGD 1,000 (about USD 740), and in the case of a second or subsequent conviction, a fine not exceeding SGD 2,000 (about USD 1,500).