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New Consumer Protection Act

On 1 July 2024, Act No. 108/2024 Coll. on Consumer Protection and on Amendments and Additions to Certain Acts (hereinafter also referred to as the "Act") came into force, which fundamentally changes the legal regulation of consumer law in Slovakia. The new Consumer Protection Act replaces the following legislation:

- Act No. 250/2007 Coll. on consumer protection and on amendments to Act of the Slovak National Council No. 372/1990 Coll. on offences,
- Act No. 102/2014 Coll. on consumer protection in the sale of goods or provision of services under a distance or off-premises contract; and
- Act No. 299/2019 Coll. on supervision and assistance in dealing with unjustified geographical discrimination against customers in the internal market.

As stated in the explanatory memorandum to the Act, the purpose of the new legislation on consumer law is to modernise consumer legislation and to bring it more closely into line with EU law. The primary reason for the revision of the existing legislation was the need to transpose Directive (EU) 2019/770 of the European Parliament and of the Council of 20 May 2019 on certain aspects of contracts for the supply of digital content and digital services (OJ L 136, 22.5.2019), Directive (EU) 2019/771 of the European Parliament and of the Council of 20 May 2019 on certain aspects of contracts for the sale of goods, amending Regulation (EU) 2017/2394 and Directive 2009/22/EC and repealing Directive 1999/44/EC (OJ L 136, 22.5.2019), as well as Directive (EU) 2019/2161 of the European Parliament and of the Council of 27 November 2019 amending Council Directive 93/13/EEC and Directives 98/6/EC, 2005/29/EC and 2011/83/EU of the European Parliament and of the Council as regards better enforcement and modernisation of Union consumer protection rules (OJ L 328, 18.12.2019) into Slovak law.

Among the most significant changes introduced by the new legislation are:

- unification of consumer law concepts,
- extending the withdrawal period,
- protection of consumers against price manipulation,
- authenticity of reviews,
- dual quality marketing,
- regulation of the complaints procedure, and
- penalty mechanism.

Unification of consumer law concepts

The new Consumer Protection Act is not intended to be a codification of the entire consumer law; it is still closely linked to Act No. 40/1964 Coll., the Civil Code as amended (hereinafter referred to as the "Civil Code"). The amendments to the Civil Code, in response to market developments and changes to European consumer legislation, for example, change the previously used term 'seller' to 'trader', introduce definitions of digital content, digital service, item with digital elements or contract with digital performance into the Slovak legal order.

The unification or introduction of new concepts of consumer law, as applicable, is of course linked to the obligation of traders to incorporate these new concepts into their documentation with customers.

The Act also introduces a new regulation of the information obligations of online marketplace operators, who are obliged to notify the consumer clearly, comprehensibly and in a manner appropriate to the means of distance communication before concluding a contract on an online marketplace or before an offer on an online marketplace becomes binding on the consumer, inter alia, whether the person offering the product on an online marketplace is a trader or a non-business operator, so that buyers have transparent information as to whether they will benefit from consumer protection.

Extension of the withdrawal period

One of the most significant changes is the extension of the withdrawal period without giving a reason from the previous 14 to 30 days for contracts concluded on or in connection with an unsolicited home visit of a trader or a sales event, i.e. an organised event.

The trader is obliged to inform the consumer of the possibility to withdraw from the contract. If the trader fails to do so, the consumer may withdraw from the distance contract / off-premises contract within 12 months of the expiry of the statutory period.

In this context, the Act provides in Annex 2 for a model form for withdrawal from a distance contract / off-premises contract and in Annex 3 for an instruction on the exercise of the

consumer's right to withdraw from a distance contract / off-premises contract.

Protecting consumers from price manipulation

In order to protect consumers from unfair commercial practices identified in the practices of a number of relevant EU traders, in particular during special sales events, new regulation on price reductions has been introduced to avoid price manipulation in the form of misleading consumers about the amount of the actual discount.

Under Section 7 of the Act, a trader is required to state in any price reduction notice the previous price of the goods, which is the lowest price at which the trader sold or provided the goods in the 30 days prior to the price reduction, or in the period since the goods were put on sale, if the total period of sale of the goods prior to the price reduction has not yet reached 30 days. In the case of a gradual reduction in price, the trader may also indicate the original price before the first reduction, irrespective of the duration of the sale of the goods. The above rules do not apply to products that are subject to rapid deterioration or perishability, so the exclusion applies, for example, to food and drink with a short shelf life or minimum durability.

Authenticity of reviews

In order to prevent deceptive practices and to provide consumers with greater certainty when shopping online, traders are also obliged to inform the consumer whether and how the trader ensures the authenticity of consumer reviews of products, as well as the main parameters that determine the ranking of products in the online search result and their relative importance to each other.

Double quality marketing

Misleading commercial practices are extended to include dual quality marketing, which is the marketing of goods in a way that presents the goods as identical to goods marketed in other Member States of the European Union or in States that are a contracting party to the Agreement on the European Economic Area, even though the goods have substantially different composition or characteristics. It is also introduced that this commercial practice shall not be considered misleading if the different composition and characteristics of the goods are justified by legitimate or objective factors.

Complaints procedure

The new legislation abolishes the obligation to draw up a complaints procedure; this obligation remains only for certain entities such as banks and branches of foreign banks.

The time limit for the settlement of complaints has also been amended, so that traders are obliged to remedy the defect within a reasonable period. Reasonable time means the shortest time necessary for the seller to assess the defect and to repair or replace the item, taking into account the nature of the item and the nature and severity of the defect. The time limit for remedying the defect shall remain no longer than 30 days from the date of the defect complaint, unless a longer period is justified by an objective reason beyond the seller's control.

Sanctioning mechanism

A positive development for traders should be the introduction of new institutes aimed at reducing or waiving the penalty for breach of a legal obligation if the supervised person accepts responsibility for its unlawful conduct, puts an end to the infringement, remedies the consequences of its conduct and compensates consumers whose rights have been infringed by its conduct. At the same time, the imposition of penalties depending on the trader's turnover is regulated.

In addition to the above points, the new Consumer Protection Act introduces other changes. These include, for example, the removal of the administrative burden of the trader's ability to reject a complaint made within the first 12 months of purchase only on the basis of an expert assessment or the abolition of the obligation to notify the municipality of the closure of an establishment. Only practice will show whether the new legislation will have the desired effect.

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→ Tax

Translation of the OECD Transfer Pricing Guidelines

The Ministry of Finance of the Slovak Republic has published on its website the official Slovak translation of the "OECD Transfer Pricing Guidelines for Multinational Enterprises and Tax Administrations" issued by the Organisation for Economic Co-operation and Development (OECD) in January 2022.

Parts of the OECD Transfer Pricing Guidelines from the years 1995 and 1997 have been translated into Slovak and published in Financial Newsletters No. 14/1997, No. 20/1999 and No. 3/2002. Over the years, additional chapters have been added to the Guidelines (Chapters IX - Transfer Pricing Aspects of Business Restructurings and X - Transfer Pricing Aspects of Financial Transactions), and individual chapters have undergone successive additions and revisions to the texts. The 1997-2002 translations were therefore not up-to-date in view of the updates to the Guidelines.

The OECD Guidelines is the basic interpretative tool used by multinational enterprises in the transfer pricing process itself and, consequently, in the control of the correctness of transfer pricing by tax administrations.

The translated version of the Guidelines is available at [Pramene OECD | Ministerstvo financií Slovenskej republiky \(mfsr.sk\)](https://www.mf.gov.sk/Pramene/OECD/Ministerstvo_financi%C3%AD_Slovenskej_republiky/mfsr.sk).

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