



ნოდია, ურუმაშვილი და პარტნიორები NODIA, URUMASHVILI & PARTNERS

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1. *New Law on Protection of Consumer Rights*

From June 1, 2022 a new Law on Protection of Consumer Rights came into force. The chief purpose of this Law is to determine the legal basis of protection consumer rights within Georgia and to facilitate to the development of state policy in this direction.

The main subjects of the law are consumers and traders entering into a civil-legal relationship with each other. The law regulates various consumer areas, including: distance contracts, off-premises contracts, misleading advertising and commercial practice, unfair terms of a contract.

Among the above, the priority of consumer rights is especially visible in the part of distance and off-premises contracts. The legislator empowers consumers to withdraw from a distance contract and/or an off-premises contract within 14 calendar days without giving any further reasoning or ground. Nonetheless, the law foresees exceptions from this rule with regard to the products that according to their characteristics cannot be freely returned back to the trader.

On the other hand, the law also defines the list of obligation for the traders to provide information to a consumer on goods. For instance, a trader is obliged to notify consumer about its trade name, its actual address, if it differs from the legal address. Moreover, a trader is obliged to inform a consumer about the price of goods or services, including the taxes, and where the price cannot reasonably be calculated in advance, the manner in which the price will be calculated. It should be noted that a trader is obliged to deliver goods to a consumer without delay, but not later than 30 calendar days after concluding a contract, unless otherwise provided for by the contract.

In the context of trader's obligations, it should be mentioned that if a consumer detects a defect(s) of good after 6 months from acquiring physical possession on goods, the burden of proof for the good being defective at the time of delivery lies on consumer.

For the purposes of the law, the remote contract and the related regulation are addressed

to traders operating in Georgia - The law shall not apply to contracts related to foreign online stores.

Law enforcement is supervised by Legal Entity under Public Law called The Georgian National Competition Agency through its consumer protection department, that will start operating from November 1, 2022. The Agency as provided by the EU directive, will act as an arbitrator in assessment of the law violation and will take specific measures against traders. The sanction may include both a warning and a fine of no more than two percent of the trader's turnover of previous year. In case of repeated violation by the trader within 12 months, it will be fined twice the amount of the imposed fine. The imposition of a fine does not release the trader from an obligation to comply with the Agency's decision.

2. *"British American Tobacco Georgia Limited" constitutional claim has been upheld*

On May 29, 2021, by the decision of the Constitutional Court of Georgia, the normative substance of Law which excluded any possibility of selling tobacco products at a price lower than the cost price, has been declared unconstitutional. The court recognized as unconstitutional the normative content of the law that in the presence of reasonable economic interest, prohibits the sale of tobacco products to other economic agent at a price lower than the market price. The court pointed out that economic agents operating in a competitive market, who are limited by the market price of a particular product, as a rule, do not have a reason to sell it at a price below market price due to the unprofitability. However, the court stated that, as an exception, legitimate economic interest in selling products at a price below market price, could still exist and the aim of trader may not be solely motivated by the desire of harming a competing economic agent.

The interpretation of the law in this way led the court to establish that selling tobacco at a price lower than the market price does not a priori imply the existence of a purpose of harming others. Accordingly, the normative content of the words "or at a price lower than the cost price" of Article 5, Clause 2, subparagraph "i" of the Law on

Tobacco Control, which excludes any possibility of selling tobacco products at a price lower than the cost price, was declared unconstitutional.

3. Amendments to the Law of Higher Education

On May 13, 2020, amendments were made to the Law of Georgia "On Higher Education", according to which various forms of public and private cooperation containing international elements in the educational field were defined. Amendments provided a status of an international school which contributes to the internationalization and development of the educational field.

Proposed change makes it feasible that upon an approval of the Ministry of Education and Science of Georgia, a management of the main educational unit created in the form of international school to be carried out by a foreign private legal entity/organization that has significant and successful experience in the field of education. The Ministry's consent on the status of International School is granted on the basis of a partnership agreement concluded between an educational institution and a legal entity based abroad with relevant experience (international master-doctoral school/international school manager).

4. Draft Law on the Activities of Microbanks

On July 4, 2022 the draft law of Georgia on the Activities of Microbanks was discussed at the Government Meeting. According to the draft law, new entities - microbanks, will appear in the financial market from next year, which will be supervised by the National Bank of Georgia. This changes enable the microfinance sector to transform itself into a microbank, thereby attracting more capital and deposits.

New entities will also have the opportunity to establish itself as microbanks. The capital requirement for any microbank will be 10 (ten) million GEL. In contrast with the microfinance organizations, the draft law also increases the limit of lending amount from one hundred thousand to one million GEL. With this legislative package, large microfinance organizations will be

able to transform into microbanks, and as a result, they will have access to more financial resources.

According to the explanatory note, with the adoption of the draft law, a medium-sized, stable business model and high-reputation financial institution will be created in the financial sector, which will be focused on promoting crediting to entrepreneurial and agricultural activities. This will increase free competition in the market and lead to a reduction in interest rates on credit products. Access to financial products and financial inclusion will improve, especially in the regions. In addition, micro-banks will have a social mission related to the creation of new jobs as a result of small business development.

The draft law defines permitted banking activities for micro-banks:

- Issuance of loans, guarantees, accreditives and leasing, factoring operations, within the limits established by the draft law.
- Attracting interest-bearing and interest free demand and time deposits only within the limit established in accordance with the law of Georgia on "Deposits Insurance System". Also, above the limit, servicing current accounts in compliance with the liquidity requirements determined by the National Bank of Georgia; as well as raising other returnable funds, including from individuals (including individual entrepreneurs) in accordance with the draft law.
- Opening and servicing correspondent accounts; implementation of cash and non-cash settlements and cash-collection services; issuing payment cards and organizing their circulation; implementation of payment services, provision of payment services, operation of the payment system, performing the functions of settlement agent.
- Interest-free banking services, concluding derivate agreements, buying and selling securities with own funds, except in the case when it requires a license of brokerage activity.

- Buying and selling foreign currency with own and clients' funds; storing valuables; leasing a property only for implementation of micro-banking activities.
- Other services related to each of the above-mentioned activities.

Beyond and above, the micro-bank is authorized, in addition to the activities stipulated by the draft law, upon the approval of the National Bank of Georgia, to additionally carry out activities permitted to the brokerage company in accordance with the requirements established by Law of Georgia on Securities Market.



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