

ELECTRONIC COMMERCE REGULATION IS PUBLISHED IN CHILE

On September 23, 2021, the Ministry of Economy, Development and Tourism published in the Official Gazette the Electronic Commerce Regulation ("**Regulation**"). It will become effective on March 24, 2022, according to its transitory article.

This Regulation, complying with the provisions of Article 30 and Article 62 of Law No. 19,496 on Consumer Rights Protection ("**CPA**") aims to regulate the information and the quality, form and opportunity in which it must be delivered to consumers by the different suppliers in the case of electronic commerce, in order to ensure informed decision making, strengthening the right to free choice of consumers. All this, through the establishment of new information duties and by regulation the minimum contents that must be informed to consumers. Additionally, the Regulation provides legal certainty regarding the situation of electronic platform operators, which will be deemed as suppliers under the CPA, which to date was pending regulation and had given rise in the past to controversies resolved at the jurisprudential level.

Among the modifications introduced by this Regulation, we highlight the following:

Delivery of Information Online

In order for consumers to have all the background information they need to make an informed consumer decision, the Regulation establishes that the information provided online by sellers, on a platform operated by them:

- Shall be complete, clear, accurate and easily accessible.
- Must be provided in simple and easy-to-understand language, and prior to the purchase of the product or contracting of the service.
- In the case of basic commercial information on services and products of national manufacture or foreign origin, as well as their identification, instructions for use and guarantees, and the dissemination of such information, it must be provided in Spanish.

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- In the case of sellers that offer their products or services through platforms operated by third parties, they must provide them with the aforementioned information.

Information about the seller

The Regulation establishes that sellers that offer products or services, through platforms operated by them, must provide the consumer with the following information:

- Identification of the natural or legal person (name, corporate name or fantasy name);
- Unique Tax Identification Number or Unique National Identification Number;
- Legal address;
- E-mail address, telephone number or other means of contact through which the consumer may contact the seller;
- Means by which the seller will contact the consumer; and
- In the case of a legal entity, identification of its legal representative.

The seller offering goods or services through platforms operated by third parties must provide them with the referred information. However, if it is the operator who, by virtue of its role in the sale of the product or contracting of the service, assumes the obligation to keep in contact with the consumer, the seller shall not provide the information indicated in numbers 4 (means of contact by which the consumer may contact the seller) and 5 (means by which the seller may contact the consumer).

Information on the role of the platform operator

The operators of e-commerce platforms that, under a contract with a different seller of goods or services, offer products or services of the latter, must clearly indicate, and before the purchase of the product or contracting of the service is perfected: (i) what is its role in the sale or contracting and (ii) make explicit what are the contractual obligations it will assume with the consumer, if any.

Information on the essential characteristics and features of the products or services

Sellers offering or selling products or services through platforms operated by them shall provide consumers, prior to contracting, with

information regarding the particularities or qualities of the product or service whose knowledge is necessary for the consumer to make an informed consumption decision, indicating, as appropriate:

- The characteristics of the product or service offered in accordance with its nature and destination;
- The origin or place of manufacture of the product;
- The make, model and sub-model of the product;
- If offered by the seller, the conventional warranty attached to the purchase of the product or the contracting of the service offered, indicating the term of validity, the conditions under which it operates and the ways to make it effective;
- Reference qualities that allow the identification of the product, such as: dimensions, size, color, weight, number of units that compose it, material, and content of the product;
- In the case of services, the description of the services included; and,
- Any other relevant condition, characteristic or benefit of the product or service offered.

In the case of sellers that offer their products or services through platforms operated by third parties, they must provide the latter with the aforementioned information.

Contracting information

Sellers offering or selling products or services through platforms operated by them shall provide consumers, prior to contracting, to the extent applicable, the following:

- Terms and conditions regarding payment, the means associated with it, and the detail of any other charges, within the total cost, to be settled by the consumer;
- Return and exchange policies;
- Terms and conditions of delivery, dispatch, withdrawal of the product or provision of the service; and,
- The total cost of the product or service offered.

In the case of sellers that offer their products or services through platforms operated by third parties, they must provide the latter with the aforementioned information.

Stock information and availability

Sellers who offer or sell products or services through platforms operated by them, must inform the consumer, clearly, visibly and prior to contracting, the lack of stock, or the fact of not being available for any other reason. Once the contract has been perfected, sellers must faithfully and timely comply with it.

The seller that offers products or services through platforms operated by third parties must keep the latter informed about the stock or availability of their products or services.

Delivery, dispatch or pick-up information

In the case of products, the seller shall indicate, prior to the conclusion of the contract:

- The total cost of dispatch or delivery, broken down from the price of the product.
- If applicable, the date on which the product will be available for collection, or the range of time it will take for delivery or dispatch, indicating whether it is working days or working days;
- Mechanism through which the consumer may inquire about the status of the delivery or dispatch and/or make claims in case of delay in the delivery or dispatch of the product, when applicable.

In the case of a service, the seller must inform the consumer in the same terms about the means, term, forms and place or places where the service may be provided, either outside or at the seller's premises.

Information on the right of withdrawal

In order to exercise the right of withdrawal, under the terms of article 3 bis of the CPA, whether in respect of an instantaneous, deferred or successive performance contract, the following must be indicated on the platform:

- The existence of this right in an unequivocal, prominent and easily accessible manner, prior to the conclusion of the contract and payment of the price of the product and/or service; and
- The manner in which the consumer may exercise this right.

In those cases in which the seller expressly provides that the consumer may not unilaterally terminate the contract (when permitted by law), this fact must be informed, in an unequivocal, prominent, easily accessible and visible place, prior to the conclusion

of the contract and payment of the price of the product and / or service.

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The seller offering goods or services through platforms operated by third parties must provide the latter with the information regarding the right of withdrawal.

Information on contact support

Sellers offering products or services through platforms operated by them, must inform consumers about the contact support that will allow them to ask questions, make complaints, suggestions and make changes or returns, as appropriate.

Information on terms and conditions

Sellers that offer products or services through platforms operated by them must include in their platform a clearly visible web link or document in which consumers, prior to contracting, may consult the terms and conditions of the contract whose stipulations they must accept in order to purchase or contract the goods or services offered.

The seller offering goods or services through platforms operated by third parties must provide the latter with the referred terms and conditions, and the platform operator must include the web link or document.

Adhesion contracts of successive tract

Sellers operating through their own platforms must inform the consumer, in the case of an adhesion contract of successive tract, the opportunity and means through which he/she may express the intention to terminate it.

Procedure, penalties and monitoring of compliance with the Regulations

Failure to comply with the provisions of the Regulation will end on the application of the rules of Title IV of the CPA. Likewise, infringement of its provisions will be sanctioned in accordance with the provisions of Article 24 of the CPA, i.e., with a fine of up to 300 Monthly Tax Units.

Finally, the National Consumer Service will be responsible for ensuring compliance with the provisions of the Regulation, in accordance with the powers and attributions established in the CPA.

Entry into force

Regardless of becoming law of the Republic, this Regulation shall enter into force 6 months after its publication, that is, on March 24, 2022.

To see the full text of the Regulation in Spanish, please click the following [link](#).

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