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LEGAL ALERT

Law regulating paid passenger transportation apps is published

On April 19th 2023, Law No. 21.553 which regulates paid passenger transportation applications and the services provided through them was published in the Official Gazette.

The Law includes important provisions regarding the protection of consumers of passenger transportation services, making the sphere of protection of Law No. 19.496 - Consumer Protection Act ("CPA"), applicable to the contracts entered by passengers with the platforms of transportation application companies ("TAC").

The application of the CPA to contracts between platforms of goods and/or services and their users has been recognized by consumer jurisprudence recently, which has warned that the "intermediary supplier" must respond directly to consumers in accordance with Article 43 of the CPA. This new law reinforces this criterion.

Likewise, this new regulation is in charge of establishing a set of information duties that must be provided by the TAC, to both consumers and drivers. It will be important that both the consumer protection entity (SERNAC) and the Ministry of Transport and Telecommunications act in coordination in the exercise of their powers to promote compliance with these pre-contractual information duties and avoid duplication of potential procedures and penalties.

The following, are the main provisions that will come into effect as a result of this regulation:

Obligations of TAC

Information obligations to users

The characteristics of the application, the proposed route, the time, and the

estimated cost of the relocation/transfer.

The fare (including tolls) before the start of the trip. The fare may not vary once the passenger has accepted the conditions of the service unless circumstances change due to the consumer's wishes or unforeseen events during the trip.

The brand, model, and year of the vehicle and its license plate, along with the driver's identification, name, and rating by other users.

The terms and conditions of service on the platform or its associated websites, which should also contain any promotions that may be offered.

General service evaluation systems and their effects.

Other obligations to users

Allow permanent monitoring of the trip by the user or a third through the platform.

Provide means to report emergencies.

Additional operating requirements

Provide information to the driver about the proposed route, destination, travel time, name and rating of the user, and payment methods.

Operate only with vehicles that comply with the legal and regulatory requirements.

Only operate with registered drivers.

Keep a record of the passenger's identification, including name, unique tax number, and address, which may be requested by the Public Prosecutor's Office, National Police, or the Chilean Investigative Police in case of any crime occurring in the use of this service.

Authority in charge

The Ministry of Transportation and Telecommunications will be in charge of overseeing compliance with the law as well as keeping an electronic registry with the list of TACs and licensed drivers. The local police courthouses of the commune in which the infraction has been committed will be competent to hear these infractions.

Information management and processing

TACs shall maintain information at the disposal of the Ministry, which may be shared with the National Police for purposes of inspection and control of the law.

The management of the information must comply with the current regulations regarding personal data protection. Therefore, to guarantee the privacy and confidentiality of the user's information, TACs must deliver the data in such a way that it cannot be associated in any case to a specific person.

Entry into force

This law will become effective thirty days after the complete processing and publication of the regulation by the MMT, which shall be dictated within a nine-month period.

Authors: Guillermo Carey; Aldo Molinari; Mónica Pérez; Kureusa Hara; Eduardo Reveco