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NEW LAW NO. 21,430 ABOUT GUARANTEES AND INTEGRAL PROTECTION OF THE RIGHTS OF CHILDREN AND ADOLESCENTS THAT ESTABLISHES SOME CONSUMER PROTECTION RULES

On March 15th, 2022, the new law of Guarantees and Integral Protection of Children and Adolescents came into force. The law establishes a guarantee and protection statute that makes possible the enjoyment and effective exercise of the rights of children and adolescents with emphasis on the human rights recognized by the Constitution, the Convention on the Rights of the Child and other international treaties ratified by Chile and in local legislation.

The law refers and introduces new demands, modifications or requirements in areas that are not specifically mentioned in Law No. 19,496 (Consumer Protection Act - CPA).

Protection and defense of children and adolescents as consumers and users

Article 53 of the law expressly enshrines the protection of children and adolescents as consumers, establishing the duty of the organs of the State Administration, within their competencies, to ensure the protection and defense of their rights and interests, taking into consideration their needs and particular characteristics in the interpretation and application of the regulations.

On the other hand, the same provision establishes that these same organs should promote awareness and education of children and adolescents on sustainable and responsible consumption.

Specific regulation of goods, products or services marketed for use or consumption by children or adolescents

The law regulates certain considerations that must be observed with respect to goods, products or services targeted for children or adolescents, stating that these goods may not contain harmful substances and must provide, in a visible manner, sufficient

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information on their composition, characteristics and use, as well as the age range for which they are intended, if it is applicable.

In addition, these goods, products, or services are required to comply with sufficient safety measures to guarantee their safety, both in the use for which they are intended, and in the harmful consequences derived from an inappropriate use.

Right to information

Article 35 of the law establishes that children and adolescents have the right to be informed, in accordance with their age, maturity and degree of development, and in an understandable manner, about any action or measure that may affect the exercise of their rights and to access public information, in accordance with the law, without any disability being applied in this regard.

The same article prescribes those children and adolescents have the right to seek, access and receive information content appropriate to their age, maturity and degree of development by any means.

Likewise, the bodies of the State Administration, within the scope of their powers, will ensure compliance with the following objectives:

• That children and adolescents receive critical and responsible literacy in the use of information and communication technologies.
• That the relevant information for the development of children is easily accessible and available in a format and language appropriate for them, for which they will take into consideration, especially, children with disabilities.
• The existence of a mechanism for rating the content to which children and adolescents may have access, so that parents and/or mothers, or those who legally care for them, can determine the suitability or inconvenience that said contents are perceived by them, according to their age, maturity and degree of development.

Requirements regarding advertising directed to children and adolescents

Article 55 of the law establishes new requirements regarding the regulation of advertising when it is published by any written, audiovisual or telematic media, but directed at children or adolescents. Specifically, the following principles are required to be respected:

• Adaptation to the age and stage of development of the target audience.
• Exclusion of violence, discrimination and any message that incites hatred.
• Truthful and not misleading advertising.
• Informative advertising regarding the risks or dangers involved for health in the consumption or use of goods, products and services.
• Informative advertising regarding the ecological sustainability of the goods and services offered.
• No incitement to excessive consumption, without supervision of responsible adults.
• No inducement to irresponsible use of credit or financial responsibility.

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