

**REPUBLIC OF LITHUANIA**

**LAW**

**ON THE PROHIBITION OF UNFAIR BUSINESS-TO-CONSUMER COMMERCIAL  
PRACTICES**

21 December 2007 No X-1409

Vilnius

**CHAPTER ONE**

**GENERAL PROVISIONS**

**Article 1. Purpose and scope of the Law**

1. This Law shall impose prohibition on unfair business-to-consumer commercial practices and establish the types and cases of unfair commercial practices, as well as institutions responsible for supervision of compliance with the provisions of this Law and liability for infringements of this Law.

2. This Law shall apply to commercial practices before, during and after entering into a transaction in relation to a product with a view to protecting the economic interests of consumers.

3. This Law shall not apply to commercial practices that harm only the interests of competing traders or are related only to transactions between traders. Furthermore, this Law shall not regulate certification and indication of the standard of fineness of articles of precious metals and shall not establish the rules of activities of regulated professions and norms of professional ethics of regulated professions.

4. The provisions of this Law shall implement the legal acts of the European Union referred to in the Annex to this Law.

5. The provisions of this Law shall apply where there are no other laws establishing the specific features of unfair commercial practices.

**Article 2. Definitions**

1. **Code of conduct** means the standards (rules) of conduct agreed by traders in one or more particular commercial practices or business sectors and not imposed by laws or other legal acts.

2. **Means of information communication** means any means through which information about the products is communicated to a consumer (television and radio advertisements, announcements in the press, SMS, flyers, etc.).

3. **To materially distort the economic behaviour of consumers** means using a commercial practice to appreciably impair the consumer's ability to make an informed decision, thereby causing the consumer to take a transactional decision that he would not have taken otherwise.

4. **Business-to-consumer commercial practices** (hereinafter: “commercial practices”) means any act, omission, course of conduct or representation, including advertising and marketing, by a trader, directly connected with the promotion, sale or supply of a product to consumers.

5. **Trader** means any natural or legal person or other organization who, in commercial practices covered by this Law, is acting for purposes relating to his trade, business, craft or profession, or anyone acting in the name of or on behalf of a trader.

6. **Commercial offer** means a communication which indicates characteristics of the product and the price, and/or the price of a standard unit, in a way appropriate to the means of information communication used and thereby enables the consumer to make a purchase.

7. **Undue influence** means exploiting a position of power by a trader in relation to the consumer so as to apply pressure, even without using or threatening to use physical force, in a way which significantly limits the consumer's ability to make an informed decision.

8. **Product** means any goods or service (activity and/or its result) including immovable property, rights and obligations.

9. **Professional diligence** means the standard of special skills and care which a trader may reasonably be expected to exercise towards consumers, commensurate with honest market practice and/or the general principle of good faith in the trader's field of activity.

10. **Transactional decision** means a consumer's decision to act or to refrain from acting taken by the consumer concerning whether, how and on what terms to purchase, make payment in whole or in part for, retain or dispose of a product or to exercise a contractual right in relation to the product.

11. **Code owner** means any person, including a trader, a group of traders or an independent monitoring body established by them, which is responsible for the formulation and revision of a

code of conduct and/or for monitoring compliance with the code by those who have undertaken to be bound by it.

12. **Consumer** means any natural person who, in commercial practices covered by this Law, is acting for purposes which are outside his trade, business, craft or profession (consumption purposes).

13. **Average consumer** means a consumer who is reasonably well-informed and reasonably observant and circumspect, taking into account social, cultural and linguistic factors.

## **CHAPTER TWO**

### **UNFAIR COMMERCIAL PRACTICES**

#### **Article 3. Prohibition of unfair commercial practices**

1. Unfair commercial practices shall be prohibited.

2. A commercial practice shall be unfair if it is contrary to the requirements of professional diligence and if:

1) it materially distorts or is likely to materially distort the economic behaviour of an average consumer with regard to the offered product, or

2) it materially distorts or is likely to materially distort the economic behaviour of the average member of the group of consumers with regard to the offered product when the commercial practice is directed to a particular group of consumers.

3. Where a commercial practice is directed to a clearly identifiable group of consumers who are particularly vulnerable to the commercial practice or the offered product because of their mental or physical infirmity, age or credulity and a trader could reasonably be expected to foresee it, and such commercial practice is likely to materially distort the economic behaviour of a member of such group of consumers, the commercial practice shall be assessed from the perspective of the average member of that group.

4. Misleading commercial practices and aggressive commercial practices are the most common unfair commercial practices. Any other commercial practice that meets the requirements set in paragraph 2 of this Article shall also be considered as an unfair commercial practice.

5. When establishing whether a commercial practice is unfair, account shall be taken of the specific features and circumstances of the commercial practice carried out in a specific situation.

6. Statements in advertisements to be understood in a figurative sense or statements that are not to be understood literally due to the aphorisms used as well as ethical or cultural

traditions, the established customs and similar things shall not be considered as unfair commercial practices.

#### **Article 4. Misleading commercial practices**

Misleading actions or misleading omissions shall be regarded as misleading commercial practices.

#### **Article 5. Misleading actions**

1. Misleading actions shall be the provision (including overall presentation) of misleading information or information which, even if factually correct, deceives or is likely to deceive the average consumer in relation to one or more of the elements referred to in this paragraph, and causes or is likely to cause him to take a transactional decision that he would not have taken otherwise:

1) the existence or nature of the product;

2) the main characteristics of the product, such as its availability, benefits, risks, execution, composition, accessories, after-sale customer assistance and complaint examination, method and date of manufacture or provision, delivery, fitness for purpose, usage, quantity, specifications, geographical or commercial origin or the results to be expected from its use, or the results of tests or checks carried out on the product;

3) the commitments of the trader, the objectives of the commercial practice and the method of selling the product, any statement or marks in relation to direct or indirect sponsorship or approval of the trader or the product;

4) the price of the product or the manner in which the price is calculated, or the existence of a specific price advantage;

5) the need for a service, part, replacement or repair of the product;

6) the name or identity of the trader or his agent, the legal form, assets, qualifications, legal status, permits, membership or connection, commercial rights and industrial or intellectual property rights, as well as awards and distinctions thereof;

7) the consumer's rights provided for in the laws of the Republic of Lithuania or the risks he may face.

2. A commercial practice shall also be regarded as misleading actions if it causes or is likely to cause the average consumer to take a transactional decision that he would not have taken otherwise. Such practice shall involve:

1) marketing of a product, including comparative advertising, which creates confusion with

any other products, trademarks, names of a trader or other distinguishing marks;

2) non-compliance by the trader with commitments contained in codes of conduct by which the trader has undertaken to be bound, where the commitment is not aspirational and it is possible to verify its compliance, and where the trader indicates in a commercial practice that he is bound by such code.

## **Article 6. Misleading Omissions**

1. Taking into account the limitations of the means of information communication, actions that cause or are likely to cause the average consumer to take a transactional decision that he would not have taken otherwise shall be considered as misleading omissions:

1) omission of material information that the average consumer needs to take an informed transactional decision, or

2) hiding or provision in an unclear, unintelligible, ambiguous or untimely manner of material information that the average consumer needs to take an informed transactional decision, or

3) failure to identify the intent of the commercial practice if not already apparent from the context.

2. Where the means used to communicate the commercial practice imposes limitations of space or time, these limitations and any measures taken by a trader to make the information available to consumers by other means must be taken into account when deciding whether information has been omitted.

3. The following information about a commercial offer shall be regarded as material if not already apparent from the context:

1) the main characteristics of the product (to an extent appropriate to the means of information communication and the product);

2) the address of the registered office, the place of residence or a point of sale and the forename, surname or name of the trader, and, where applicable, the address of the registered office, the place of residence or a point of sale and the forename, surname or name of the trader on whose behalf he is acting;

3) the final price of the product or the manner in which the price is calculated (where, due to the nature of the product, the price cannot reasonably be calculated in advance), as well as all potential additional expenses to be incurred by a consumer, delivery or postal charges or information that such additional expenses may be incurred (where these charges cannot reasonably be calculated in advance);

4) the arrangements for payment, delivery, performance of commercial practices and the

complaint examination procedure if they depart from the requirements of professional diligence;

5) for transactions involving the right of unilateral withdrawal or cancellation, the existence of such a right.

4. Where it is set forth in legal acts of the European Union that any other information must be provided when carrying out commercial practices, such information shall be regarded as material.

#### **Article 7. Misleading commercial practices that need not be proved**

It shall be presumed that commercial practices are misleading if they manifest as:

- 1) false claiming that a trader is bound by a code of conduct;
- 2) displaying a trust mark, quality mark or an equivalent mark without having been granted such a right;
- 3) false claiming that a code of conduct has an endorsement from a competent institution or agency;
- 4) false claiming that the trader (including his commercial practices) has been granted a licence/authorisation, or a false statement that a product has been approved (a procedure for verifying the conformity of the product with the set requirements (legal acts, standards, etc.) has been performed), or making a claim about the licence/authorisation granted or approval of the product without the trader complying with the terms of granting of the licence/authorisation or approval of the product;
- 5) making a commercial offer indicating the price without disclosing the existence of any reasonable grounds the trader may have for believing that he will not be able to offer for supply, or to designate another trader to supply, those products, or equivalent products, at that price for a period that is, and in quantities that are, reasonable having regard to the product, the scale of advertising of the product and the price offered;
- 6) making a commercial offer at a specified price and then refusing to show the advertised product to consumers or refusing to take orders for the product or to deliver it within a reasonable time or demonstrating a defective sample of it, with the intention of promoting a different product;
- 7) false claiming that a product will only be available for a very limited time, or that it will only be available on particular terms for that period of time, in order to elicit an immediate decision and deprive consumers of sufficient opportunity or time to make an informed choice;

8) undertaking to provide after-sales product maintenance service to consumers with whom the trader prior to a transaction has communicated in a language which is not an official language of the Member State where the trader is located and then making such service available only in another language without clearly disclosing this to the consumer before the consumer is committed to the transaction;

9) false claiming or creating an impression that a product can legally be sold;

10) presenting the rights granted to consumers under legal acts as a distinctive feature of the trader's offer;

11) making a materially inaccurate claim concerning the nature and extent of the risk to the personal security of a consumer or his family if the consumer does not purchase the product;

12) promoting a product similar to a product made by another manufacturer in such a manner as deliberately to mislead a consumer that the product is made by that other manufacturer;

13) false claiming that the trader is about to cease trading or change a point of sale;

14) claiming that products are able to facilitate winning in games of chance;

15) false claiming that a product is able to cure illnesses, dysfunction or developmental disorders;

16) passing on materially inaccurate information on market conditions or information where to find a product with the intention of inducing the consumer to acquire the product at conditions less favourable than normal market conditions;

17) claiming in a commercial practice to offer a competition or prize promotion without awarding the prizes described or a reasonable equivalent;

18) describing a product as 'without charge' or similar if the consumer has to pay anything other than the unavoidable cost of responding to the commercial practice (e.g., the customer's postal or telephone expenses in accordance with the usual rates, etc.) and expenses relating to collecting or paying for delivery of the item.

19) including in marketing material an invoice or similar payment document which gives the consumer a false impression that he has already ordered the marketed product;

20) false claiming or creating an impression that the trader is not acting for the purposes relating to his trade, business, craft or profession, or falsely representing oneself as a consumer;

21) creating a false impression that maintenance service in relation to a product is available in a Member State other than the one in which the product was sold;

22) establishing, operating or promoting a pyramid scheme of distribution of goods where a consumer gives consideration for the opportunity to receive compensation that is derived primarily from the introduction of other consumers into the scheme rather than from the sale or consumption of products;

23) advertising a product through the mass media for payment or any other consideration from the trader where such advertising is not properly marked or separated from the editorial content by images or sounds clearly identifiable by the consumer as advertising.

### **Article 8. Aggressive commercial practices**

1. A commercial practice shall be regarded as aggressive if by harassment, coercion, including the use of physical force, or undue influence, it significantly impairs or is likely to significantly impair the average consumer's freedom of choice or conduct with regard to a product and thereby causes him or is likely to cause him to take a transactional decision that he would not have taken otherwise.

2. In determining whether a commercial practice uses harassment, coercion, including the use of physical force, or undue influence, account shall be taken of:

- 1) its timing, location, nature or persistence;
- 2) the use of threatening or abusive language or behaviour;
- 3) the exploitation by a trader of any grave circumstances that may affect the economic behaviour of a consumer, of which the trader is aware, to influence the consumer's decision with regard to a product;
- 4) any onerous or disproportionate non-contractual barriers that the trader uses or intends to use to limit a consumer's right to exercise his rights under the contract, including the right to terminate a contract or to switch to another product or another trader;
- 5) any threat to take any action that cannot legally be taken.

3. It shall be presumed that commercial practices are aggressive if they manifest as:

- 1) creating an impression that a consumer cannot leave the premises until a contract is formed;
- 2) conducting visits to a consumer's home ignoring the consumer's request to leave or not to return except in circumstances and to the extent justified, under the provisions of other legal acts of the Republic of Lithuania, to enforce a contractual obligation;
- 3) making persistent and unwanted solicitations by telephone, fax, e-mail or other remote



media except in circumstances and to the extent justified, under the provisions of other legal acts of the Republic of Lithuania, to enforce a contractual obligation;

4) requiring a consumer who wishes to claim on an insurance policy to produce documents which could not reasonably be considered relevant as to whether the consumer's claim was valid, or failing systematically to respond to the attempts of the consumer to contact in writing, orally or in any other ways, in order to dissuade the consumer from exercising his contractual rights;

5) including in an advertisement a direct exhortation to children to buy advertised products or persuade their parents or other adults to buy advertised products for them;

6) demanding immediate payment for the products supplied by a trader, as well as demanding deferred payment or demanding to return or keep such products where a consumer did not order them, except for the cases where the consumer and the trader have agreed before entering into contract or under the contract that should the trader fail to get the product ordered by the consumer, he can supply the consumer with another product of the same quality and price;

7) explicitly informing a consumer that if he does not buy a product, the trader's job or livelihood will be in jeopardy;

8) creating a false impression that a consumer has already won, will win, or will on doing a particular act win, a prize or other equivalent benefit, when in fact either there is no prize or other equivalent benefit, or taking any action in relation to claiming the prize or other equivalent benefit is subject to the consumer paying money or incurring a cost.

### **CHAPTER THREE**

#### **CONTROL OF UNFAIR COMMERCIAL PRACTICES**

##### **Article 9. Control institutions of unfair commercial practices**

1. The State Consumer Rights Protection Authority (hereinafter: the "Authority") shall control the compliance with the provisions of this Law, except for the provisions of paragraph 2 of this Article.

2. The Competition Council of the Republic of Lithuania (hereinafter: the "Competition Council") shall control whether the advertising is not misleading and the comparative advertising in accordance with the procedure laid down in the Republic of Lithuania Law on Advertising.

##### **Article 10. Rights and duties of the Authority**

1. In exercising, within its competence, control over the compliance with the provisions of this Law, the Authority shall have the right to:

1) obtain from state and municipal institutions, establishments and other persons the

information and documents necessary for examination of infringements of this Law;

2) obtain from traders the information and documents and, where necessary, samples of goods necessary for examination of the infringements of this Law, and also require the trader to specify and substantiate his statements relating to commercial practices where such request is deemed purposeful under the circumstances of the infringement, taking into account the legitimate interests of the trader or the consumer;

3) request the traders and other persons responsible for commercial practices to come and provide oral and written explanations;

4) in the cases provided for in this Law, impose fines or issue a warning;

5) in the cases provided for in this Law, apply a temporary measure – an obligation to suspend an unfair commercial practice.

2. The Service must:

1) forward the material about the infringements of this Law that have elements of a criminal act to law enforcement institutions;

2) ensure confidentiality of the information received from traders which constitutes a commercial secret;

3) when examining possibly unfair business-to-consumer commercial practices, apply for a conclusion to the state institution which exercises supervision of such commercial practices in the cases provided for in laws.

### **Article 11. Codes of conduct**

1. Traders shall have the right to lay down their codes of conducts and control compliance therewith.

2. Commercial operators shall inform the Authority about the approval of the codes of conduct and the appointment of the code owner in accordance with the procedure established by the Authority.

3. The Authority shall promote the development of the codes of conduct and shall cooperate with the code owners and other traders who have assumed or are planning to assume the obligations stipulated in the codes of conduct.

## **CHAPTER FOUR**

### **PROCEDURE FOR IMPOSING LIABILITY FOR INFRINGEMENTS OF THIS LAW.**

#### **APPLICATION/COMPLAINT EXAMINATION PROCEDURE**

### **Article 12. Liability for infringements of this Law**

Traders who violate the requirements of this Law shall be held liable under this Law and other laws.

### **Article 13. Fines and a warning**

1. The Authority may, within its competence, impose a fine ranging from EUR 289 to EUR 8 688 on traders for unfair commercial practices, if this fine does not exceed 3 per cent of the annual income of a trader during the previous financial year. In the event that an infringement for which a fine stipulated by this Law has already been imposed is repeated within one year, the traders may be imposed a larger fine of up to EUR 34 754, if this fine does not exceed 6 per cent of the annual income of the trader during the previous financial year. The maximum fine which may be imposed on traders who have carried out commercial practices for a period not exceeding one year shall be calculated based on the income received by them during the current financial year. Where the infringement is minor and no substantial damage to consumer interests protected by this Law is made, the Authority may, in compliance with the criteria of fairness and reasonableness, impose a penalty on traders for unfair commercial practices – issue a warning without imposing a fine. The Authority may not impose a fine on traders if more than three years have lapsed from the day of commitment of the infringement of this Law.

2. A fine of EUR 289 shall be imposed on traders for failure to enforce or inadequate enforcement of the Authority's decision on the application of a temporary measure for each day of failure to enforce or improper enforcement.

3. The amount of the fine imposed shall be determined according to the average of the minimum and maximum fine. When imposing a specific fine, the mitigating and aggravating circumstances referred to in paragraphs 4 and 5 of this Article as well as the nature, duration and extent of an infringement shall be taken into account. In the presence of mitigating circumstances, the fine shall be reduced from the average to the minimum amount, and in the presence of aggravating circumstances, the fine shall be increased from the average to the maximum amount. In the presence of both mitigating and aggravating circumstances, the fine shall be imposed taking into account their quantity and significance. The decrease or increase in the amount of the fine must be reasoned by a decision of the Authority.

4. Mitigating circumstances shall include actions of traders who, after having committed an infringement, have voluntarily prevented the harmful consequences of the infringement, cooperation with the Authority during the examination, compensation for losses and/or

elimination of damage, or receipt by the Authority of a substantiated notification from the code owner stating that the traders who have committed the infringement have terminated unfair commercial practices.

5. Aggravating circumstances shall include actions of traders who, after having committed an infringement, impede the examination, conceal the infringement and continue the infringement despite the temporary measure specified in Article 17 of this Law – an obligation to suspend unfair commercial practices.

6. The court hearing a complaint concerning the decision of the Authority and taking into account mitigating and any other circumstances (due to which a respective fine imposed on a trader who has committed an infringement of this Law would be manifestly excessive because it would be disproportionate to the committed infringement and therefore unfair) and acting in compliance with the criteria of fairness and reasonableness shall have the right to impose a fine smaller than the minimum fine stipulated in the respective paragraph of this Article;

7. A fine ranging from EUR 289 to EUR 2 896 may be imposed on traders for failure to comply or inadequate compliance with the Authority's request to provide information and documents necessary for examining the infringement of this Law, despite prior warning of the failure to comply or inadequate compliance with this request.

#### **Article 14. Procedure for examining cases of unfair commercial practices**

The Authority shall examine the cases of unfair commercial practices assigned to its competence under Article 9(1) of this Law and shall impose the prescribed fines or issue a warning. The procedure for examining the cases of unfair commercial practices and for imposing the fines or issuing a warning shall be established by this Law and the Rules for Examining the Infringements of the Law on the Prohibition of Unfair Business-to-Consumer Commercial Practices approved by an order of the Minister of Justice of the Republic of Lithuania.

#### **Article 15. Right of initiative for examining infringements of this Law**

1. The right to apply to the Authority concerning the infringements of this Law shall be granted to:

- 1) consumers;
- 2) state and municipal institutions and agencies;
- 3) consumer associations.

2. The Authority shall have the right to start examination of the infringements of this Law on its own initiative upon taking a reasoned decision. In this case, the provisions of Articles 16-

21 of this Law shall apply *mutatis mutandis*.

3. If, when examining consumers' complaints/applications in accordance with the procedure prescribed by other laws, the Authority finds sufficient data about a potential infringement of this Law, it must adopt a reasoned decision to initiate the examination procedure of the infringement of this Law.

**Article 16. Submission of an application/complaint concerning the infringement of this Law and the time limits for its examination procedure**

1. An application/complaint concerning the infringement of this Law (hereinafter: an "application/complaint") must be submitted in writing to the Authority. The application/complaint must indicate:

1) in case of the applicant being a consumer – the forename, surname and address of the place of residence, and in case of the applicant being a legal person – the name and address of the registered office, as well as information for communication;

2) the forename and surname or the name of the trader against whose commercial practices the complaint is filed and the address of the place of residence, registered office or a point of sale;

3) specific acts/omissions, behaviour or statements of the trader against which the complaint is filed and the date of occurrence thereof;

4) the factual circumstances of unfair commercial practices known to the applicant on which he bases his application/complaint along with the supporting documents in that regard, held by the applicant.

2. The Authority shall, not later than within 30 days from the day of submission of the application/complaint, adopt a reasoned decision to initiate or refuse to initiate the application/complaint examination procedure. Copies of the decision shall, not later than within three working days from the day of adoption of the decision, be sent to the persons in respect of whom the decision was adopted. The Authority shall have the right to adopt a reasoned decision to link the examination of applications/complaints with respect to the same trader and the same subject matter.

3. It shall be refused to initiate the application/complaint examination procedure where:

1) the application/complaint does not meet the requirements specified in paragraph 1 of this Article and these shortcomings are not eliminated within the time limit set by the Authority, which may not be less than seven days;

2) the examination of the infringement indicated in the application/complaint is not

assigned to the competence of the Authority;

3) the factual data indicated in the application/complaint have already been checked and a decision in respect thereof has been adopted;

4) there are no factual data that would allow to reasonably suspect that there was an infringement of this Law, or the Authority examines the application/complaint, taking into account its subject matter, in accordance with the procedure laid down in other laws;

5) more than six months have passed from the day the person specified in Article 15(1) of this Law became aware or should have become aware of the infringement of this Law indicated in the application/complaint until the submission of the application/complaint, but in all the cases – more than three years have passed from the day the infringement was committed.

4. The Authority shall examine the infringements of this Law assigned to its competence and impose fines not later than within six months from the day of adopting a decision to initiate the application/complaint examination procedure. The Authority may, by a reasoned decision, extend this time limit, but no longer than for a period of three months.

#### **Article 17. Temporary measure**

1. In urgent cases, when there are enough data about the infringement of this Law and seeking to avoid substantial damage or irreparable consequences to consumers' interests, the Authority shall have the right to impose, by its reasoned decision, a temporary measure – an obligation to suspend a possibly unfair commercial practice until the end of the application/complaint examination procedure. When the fines imposed by the decision of the Authority adopted upon the examination of the application/complaint are paid, the temporary measure shall cease to apply.

2. Before adopting a decision on the application of the temporary measure, the trader suspected of infringing this Law shall have the right to provide explanations within the time limit established by the Authority. The decision on the application of the temporary measure must be reasoned. The persons to whom the decision applies must be informed about the decision immediately, but not later than within three working days.

3. The decision of the Authority to apply the temporary measure may be appealed against in accordance with the procedure laid down in the Republic of Lithuania Law on Administrative Proceedings within one month of the adoption of the decision. Upon filing of an appeal, the application of the temporary measure shall not be suspended, unless the court decides otherwise.

#### **Article 18. Participants in the application/complaint examination procedure and other persons and their rights**

1. Participants in the application/complaint examination procedure shall include:

1) a trader in respect of whose acts/omissions the procedure is carried out;

2) a consumer, where the application/complaint examination procedure has been initiated on the basis of the consumer's application/complaint;

3) a consumer association or a state or municipal institution or agency, where the application/complaint examination procedure has been initiated at the request of the consumer association or the state or municipal institution or agency.

2. By a decision of the Authority, the following persons may also participate in the application/complaint examination procedure:

1) if in the process of examination of the application/complaint, it was applied for a conclusion under Article 10(2)(3) of this Law – a representative of the state institution that submitted the conclusion;

2) experts, specialists and other persons.

3. Participants in the application/complaint examination procedure may be represented by their representatives.

4. Participants in the application/complaint examination procedure shall have the right to participate in the examination of the application/complaint, get access to the documents and information received, make extracts, true copies and copies thereof, provide explanations, interview witnesses and propose to interview witnesses, provide additional information and other documents.

#### **Article 19. Notification about the examination of an application/complaint**

Participants in the application/complaint examination procedure shall, not later than 14 days before the day of examination of the application/complaint at the Authority, be notified by registered mail about the potential infringements of this Law and the venue and time of examination of the application/complaint and shall also be offered to get access to the documents and other information received and to provide written explanations.

#### **Article 20. Examination of an application/complaint**

1. The Authority shall examine an application/complaint in accordance with the written or oral procedure as laid down in this Law and the Rules for Examining the Infringements of the Law on the Prohibition of Unfair Business-to-Consumer Commercial Practices.

2. The application/complaint shall be examined in accordance with the oral procedure in public session, attended by the participants in the application/complaint examination procedure. The Authority may, on its own initiative or at the request of the participants in the

application/complaint examination procedure, announce the session or a part thereof to be closed, where this is necessary with a view to protecting a state or official secret and the commercial secret of a trader, or to ensuring the consumer's right to inviolability of private life.

3. A trader in respect of whose acts/omissions the application/complaint examination procedure is carried out must, within the time limit specified by the Authority, which is not shorter than 14 days, provide to the Authority information and documents for examination of potential infringements of this Law. If the documents and information required to be submitted by traders under Article 10(1)(2) of this Law are not presented within the time limit specified by the Authority, or if the Authority believes that these are insufficient, it shall be presumed that the traders' statements relating to commercial practices are inaccurate.

4. Where the participants in the application/complaint examination procedure are not present during the examination of the application/complaint in accordance with the oral procedure, the application/complaint may be examined only when it is established that they have been informed about the venue and time of the examination of the application/complaint in accordance with the procedure laid down in Article 19 of this Law.

#### **Article 21. Decisions adopted upon examining an application/complaint**

1. Having examined an application/complaint, the Authority shall adopt the following decision:

- 1) to impose fines or issue a warning provided for in this Law;
- 2) in the absence of the grounds specified in this Law, to refuse to impose fines or issue a warning.

2. The following must be specified in the decision:

- 1) the name of the institution which has adopted the decision;
- 2) the date and place of adoption of the decision;
- 3) the data about the trader in respect of whose acts/omissions the decision has been adopted;
- 4) the established factual circumstances of unfair commercial practices;
- 5) the data confirming the fact of infringement, whereon the decision is based;
- 6) the relevant article of this Law establishing liability for the infringement;
- 7) explanations provided by the trader in respect of whose acts/omissions the decision has been adopted and their assessment;
- 8) the decision adopted;
- 9) the time limits and the procedure for appealing against the decision.

3. Decisions of the Authority shall, within three working days from their adoption, be sent



by registered mail to the persons in respect of whom they were adopted.

#### **Article 22. Enforcement of decisions**

1. A decision of the Authority on the imposition of a fine shall be enforced by paying the fine to the state budget. The decision of the Authority on the imposition of the fine must be enforced not later than within one month from the day of service of the decision on the trader.

2. A decision of the Authority shall be an instrument permitting enforcement, enforced in accordance with the procedure laid down by the Code of Civil Procedure of the Republic of Lithuania. The decision of the Authority may be submitted for enforcement not later than within three years from the date of its adoption. This time limit shall be extended by the period of time the enforcement of the Authority's decision to impose a fine was suspended by the court.

#### **Article 23. Appeal against decisions**

1. Decisions of the Authority may, within one month from the day of service of the decision, be appealed against in court in accordance with the procedure laid down in the Republic of Lithuania Law on Administrative Proceedings.

2. Referral to a court shall not suspend the enforcement of decisions on the imposition of a fine or issue of a warning, unless the court establishes otherwise.

### **CHAPTER FIVE FINAL PROVISIONS**

#### **Article 24. Entry into force and implementation of the Law**

1. This Law, except for paragraph 2 of this Article, shall enter into force on 1 February 2008.

2. The Ministry of Justice and the Authority shall adopt legal acts necessary for the implementation of this Law before the entry into force of this Law.

*I promulgate this Law passed by the Seimas of Republic of Lithuania.*

PRESIDENT OF THE REPUBLIC

VALDAS ADAMKUS

Annex to  
the Law on the Prohibition of  
Unfair Business-to-Consumer Commercial Practices

**LEGAL ACTS OF THE EUROPEAN UNION IMPLEMENTED BY THIS LAW**

Directive 2005/29/EC of the European Parliament and of the Council of 11 May 2005 concerning unfair business-to-consumer commercial practices in the internal market and amending Council Directive 84/450/EEC, Directives 97/7/EC, 98/27/EC and 2002/65/EC of the European Parliament and of the Council and Regulation (EC) No 2006/2004 of the European Parliament and of the Council ('Unfair Commercial Practices Directive') (OJ, 2005 L 149, page 22).