



Dear consumers,

it is my pleasure to introduce to you a new information material entitled “What to Watch for as Consumers” published by the Czech Ministry of Industry and Commerce. This handbook is designed primarily for foreigners permanently residing in the Czech Republic who may not yet understand the issue of consumer protection and often find themselves disadvantaged due to their lack of proficiency in Czech.

The European Union is set on protecting consumers against dangerous products and providing them with a sufficient amount of objective information they can use to judge whether the products or services being offered are needed and desirable. In many instances, consumers’ worries do not stop at the moment they purchase a given product. They may later find the product to be defective and the seller may at times follow incorrect procedures or violate applicable rules and regulations.

The following publication will help you navigate through basic situations encountered while shopping for and purchasing goods and inform you about your rights afforded to you by the Consumer Protection Act, the Civil Code and other relevant rules and regulations. In addition, it will tell you how to react if you come across a violation of applicable rules and regulation by sellers.

Consumer knowledgeability is one of the European Community’s priorities. All consumers should not only know their rights but also know how to exercise them effectively. If this handbook helps you do that, its purpose will have been fulfilled.

I wish you that you may have many successful and happy shopping experiences.

Ing. Milan Urban
minister of industry and commerce

Consumer Protection in the Czech Republic

What to Watch for as a Consumer

As the borders opened up and tariffs and other restrictions were removed, the range of products available to consumers becomes ever so wider. Having many choices makes it also more complicated for consumers to decide even if they limit themselves to two main questions: “What do I like? What can I afford?”

Consumers must be sure that their health and safety is protected all over the European Union just as it is at home. What does Europe understand under the term consumer and how does she protect them? In a business relationship, consumers are not those engaged in business or discharge their obligations given to them by their employers but those who act with the sole purpose of satisfying their own personal needs and the needs of their families and hobbies.

Many consumers have come to realize that every advice comes in handy when filing a claim of a defective product or service with the seller. The consumers must know their rights and should exercise them when it is appropriate to do so by all means necessary.

The present market economy necessarily exposes consumers to the efforts of sellers. They are influenced by the omnipresent advertising but also by the sellers’ behavior. Can consumers make educated decisions even under such circumstances? They must be the ones making the decision because nobody is going to do that for them. The following information should be of help.

Consumers will be familiarized with situations commonly encountered when shopping for and purchasing products and services related thereto. They will also be informed of their rights and obligations as well as the rights afforded to sellers. The mentioned rights are outlined primarily by Act No. 40/1964 of the Czech Code (the Civil Code) and Act No. 634/1992 of the Czech Code (the Consumer Protection Act), as amended.

Providing definitions of the terms related to the sale of products seems expedient, if not necessary.

Consumer – a person (individual or company) who purchases products or services for purposes other than business. The phrase “using products or services for purposes other than business” is the key criterion by which to judge whether a given entity is a consumer or not. According to the Consumer Protection Act, the term consumer also includes businesspersons who buy, say, office furniture or a computer for their own use or to be used by their families and households. On the other hand, the Act does not consider businesspersons who buy products or services to be used in the course of their business activities to be consumers.

Seller – entrepreneur (who satisfies the criteria set forth under Section 2, paragraph 2 of the Business Code) who sells products or provides services to consumers.

Manufacturer – the Act subsumes three types of entrepreneurs in this category:

- person who manufactured the product (or any portion thereof) or provided services,
- person who extracted raw materials or processed the same,
- person who labeled himself a manufacturer.

Importer – an entrepreneur who imported products into the Czech Republic.

Supplier – every other entrepreneur (including those considered sellers, manufacturers and importers) who either directly or indirectly through other entrepreneurs delivers products to sellers.

Product – any good which was manufactured, extracted or otherwise obtained for the purpose of being sold to consumers. The processing stage of the good is irrelevant.

Dangerous product – a product which poses an unexpected or increased risk to life, health and/or property. Such products are dangerous even if the consumers handle them properly and carefully. It can be traced to one of the following:

- a defect in the product,
- incorrect or insufficient information about the product, its use, assembly or storage.

Consumer goods – (defined by Directive 199/44/EEC) material objects with the exception of

- goods sold as part of an execution or other judicial proceedings,
- water and gas unless sold in limited quantities or specified amounts,
- electricity.

Service – any business activity performed with the intent of being offered to consumers. Certain services where the conditions under which they are to be provided are very specific are covered by special statutes (e.g., attorney services are governed by the Attorney Services Act).

Purchase agreement – at the time the buyer accepts the seller's offer, a purchase agreement is deemed to be concluded; in other words a legal obligation whereby the title to the product passes from the seller to the buyer is established. A purchase agreement must be entered into in writing or orally. Such agreement is entered into not only when making a purchase in a store but also when a dealer comes to a buyer's home, at a company presentation, at a marketplace, etc. The place of sale has no effect on the consummation of a purchase agreement nor does it in any way affect its validity. Making a purchase in a store is also considered entering into a purchase agreement. The requisites of a purchase agreement are the subject matter and sales price – no purchase agreement can be entered into without these two pieces of information.

The Civil Code affords considerable latitude to the contracting parties in changing their rights and duties as well as the terms under which they can be exercised and enforced. It is precisely for these reasons why it is important to consider the details of every purchase agreement before entering into it (even if doing so orally in a store, for example). Each and every written purchase agreement should be read carefully before signing, including the small print, which applies even more when purchasing outside of the regular place of business or over distance).

1 Honest Dealings and Deceiving Consumers

Sellers are pursuant to Section 6 of the Consumer Protection Act required to sell products of correct weight, measure or amount and allow the consumers to verify such information. In addition to that, the products they sell and the services they provide must be of statutory or approved quality (if such quality level is mandated by special regulations) or of claimed quality. In case there is no quality level prescribed or specified, offered products and services must be of common quality.

Deception is defined as causing someone to act based on false information, an action which the Consumer Protection Act expressly prohibits. This provision is similar to the one stipulated in the Business Code prohibiting unfair competition; only this one focuses on consumer protection.

Section 8 of the Consumer Protection Act adds details to the general framework established by the Business Code as far as unfair competition (Section 41 and following) by specifying certain types of behavior deemed deception. Section 8, paragraph 1 of the Consumer Protection Act includes an across-the-board prohibition of deception, which must be observed not only by the service provider or seller but everyone, including their employees. Said provision goes on to provide a list of typical cases of deception: providing false, unfounded, incomplete, inaccurate, unclear, ambiguous or exaggerated information, withholding information about the true properties of a given product or service or the level of purchasing conditions.

A further extension to the prohibition of deception is stated in Section 8, paragraph 2 of the Consumer Protection Act, which expressly states that deception includes offering or selling products violating certain intellectual property rights as well as storing such products with the intent to offer or sell them. Intellectual property rights are defined as copyrights, rights to trademarks, use and industrial models, patents, markings of origin.

The seller or person storing such products who commits said violations must not be absolved of responsibility for deceiving customers by stating that the required or correct information on genuine origin of products (goods) was not provided by the manufacturer, importer or supplier.

The Consumer Protection Act now also includes additional definitions of deceiving consumers. Section 7a of the Consumer Protection Act forbids manufacturing, importing, exporting, offering and selling and giving as a gift products, which are dangerous by virtue of being easily mistaken for food.

Question:

What are the sellers' obligations related to the sale of products?

Answer:

Sellers warrant to the buyers that the product being sold at the time of delivery complies with the purchase agreement, i.e. that it

- is of the quality and useful value stated by the manufacturer or seller or expected by the consumer based on advertising of such product or is of quality and useful value usual for the given product;
- is in compliance with applicable rules and regulations;
- is of the requisite amount, measure or weight;
- is fit for the use stated by the seller or for which the given product is usually used.

The seller's obligation that the product being sold at the time of delivery complies with the purchase agreement is of the so-called objective nature. This means that the seller is responsible even if he or she has no control over such properties (including cases where deficiencies are caused by a third party – for example, the manufacturer or supplier).

Question:

Can information, which is true, be still deceptive?

Answer:

Yes. The meaning of a given term does not always have to be false. Even true information may be deceptive. Section 45, paragraph 3 of the Business Code stipulates that: "Even information which in and of itself is true may be deceptive if, given the circumstances and context in which it was provided, may mislead the consumer."

In addition to true and false information, sellers may also provide incomplete information – half-truths. Even this kind of information is frequently deceptive. For example, the seller may claim that a particular package of lemonade has less calories and sugar without adding that such reduction was achieved solely by packaging the lemonade in smaller bottles while the per-unit values are identical to the competition's products.

Question:

Can a seller be absolved of responsibility for deceiving consumers by stating that required or correct information has not been provided by the manufacturer, importer or supplier?

Answer:

Responsibility for deceiving customers is of an objective nature. It is therefore not possible for a seller to be absolved of responsibility for deceiving customers by claiming ignorance. Sellers would then frequently disclaim responsibility by arguing that they could not possibly know that their actions were deceptive – proving that the opposite is true is often difficult. It is thus not relevant how information was seen by its provider but how it was received by consumers. Unclear, confusing, ambiguous and inaccurate information are always the responsibility of the person providing it. Section 8, paragraph 3 of the Consumer Protection Act also expressly says that one cannot be absolved of responsibility for deceiving consumers by claiming that the required or correct information was not provided by the manufacturer or supplier.

The statutory formulation ("deceive") leads to the conclusion that of importance are the deceiving party's actions, not the end result. A consumer does not have to be deceived. The violation is therefore a so-called threatening offence.

2 *Advertising*

Regulations related to advertising are in fact statutory limitations to the freedom of speech and dissemination of information provided for by the Charter of Human Rights and Freedoms – article 17, paragraph 4. This restriction is required in order to protect others – in this case to protect consumers' rights – and to protect morality.

Private regulation of advertising is provided for in the unfair competition provisions included in the Business Code (Sections 45 and 50a); it is designed to protect competitors but protects consumers as well against false advertising and advertising by comparison. Act No. 40/1995 of the Czech Code (Regulation of Advertising Act) represents a comprehensive public regulatory framework for advertising.

Question:

What advertising shall and shall not contain?

Answer:

The Regulation of Advertising Act includes several general prohibitions or limitations on the use of certain forms of advertising, which, thanks to their general nature, also cover unexpected and undesirable displays:

- It prohibits advertising of forbidden items. This prohibition covers generally forbidden items as well as items forbidden in a particular instances but also services for which the advertising party does not have a required license or permit. As a result, advertising drugs is not allowed because the sale of drugs is illegal. Advertising the sale of personal information or forbidden abortions is similarly prohibited. The prohibition also extends to hygienically unsafe goods. The Act further limits advertising of certain commodities – including tobacco, alcohol, medicaments, health care technology, weapons and ammunition, etc. In addition to the above, certain special statutes also contain limitations on advertising. There are limitations in place applicable to advertising on TV and the radio.
- Advertising must not contain incorrect information and elements which go against good manners – it thus may not discriminate on the basis of race, sex or nationality, attack religious or national feelings, violate morality in generally unacceptable ways, demean human dignity, contain pornographic images, violence or elements of fear or attack political beliefs. False advertising is also prohibited. There are special limitations in place governing the content of advertising vis-à-vis persons under the age of 18; it may not sanction behavior which is damaging their health, mental or moral development, recommend the purchase of products or services in a way that takes advantage of their inexperience or gullibility, urge them to press their parents, legal guardians or other persons to buy certain products and services, abuse their trust in their parents, legal guardians or other people or cause them to be inappropriately displayed in dangerous situations.
- Advertising relying on methods with undesirable or dangerous effects is likewise prohibited; the Act expressly notes concealed and subliminal advertising, i.e. advertising based on subliminal perception, which does not enter a person's consciousness. Subliminal advertising, is prohibited inter alia by the European Convention on Cross-Border Television Broadcasting. Concealed advertising is advertising which leads the audience to believe it is not advertising but another type of information (for example, news). It is dangerous for consumers treat news with a different level of trust than advertising and their transposition can cause unwarranted credibility. Both of these forms of advertising are perceived unconsciously; the audience either does not know it is advertising (concealed advertising) or does not realize it is receiving information (subliminal advertising). Concealed advertising includes biased presentation of products in programs on TV, such as an interview with a woman who lost 30 kg thanks to a miraculous formula even though she did not change her eating habits, a “Celebrity Behind the Wheel” article in the form of an interview with a celebrity giving the viewers technical specifications of his or her car, unless it is expressly noted that it is advertising. Concealed advertising does not include reviews and critiques of art as these are rooted phenomena and are frequently negative in nature (even though advertising can also be negative). A special type of concealed advertising is the pronounced use of the products of a certain brand in various works of art, including most importantly movies (a close-up of a radio with a particular radio station tuned in, the protagonist driving a particular car or smoking a particular brand of cigarettes, etc.) and fine arts (still life with a bottle of Cinzano); the opinions on the permissibility of this type of advertising vary. Subliminal advertising is, for example, the repeated insertion of certain several-milliseconds-long information, symbol or brand into a movie. As far as is known, this type of advertising has not yet been used in this country.
- It is also prohibited to distribute unsolicited advertising if it causes the addressee to incur expenses as a result or if it annoys him or her. An example of such advertising is unsolicited email (so-called spam), which bothers

not only the recipient but also causes him or her to incur expenses (for dial-up internet connection fees when downloading often large messages and file attachments).

- Advertised special offers must clearly state the date by which they end or specify that the offer is valid while supplies last. In case a given special offer becomes effective at a later date, the advertisement must specify the period during which a special price or other conditions will apply.
- Advertising by comparison was prohibited in the previous Act. It is currently allowed but only under the conditions outlined in Section 50a of the Business Code. Advertising by comparison is allowed if and only if it is not deceptive, compares only goods or services catering to the same needs or designed for the same purpose, objectively compares only material, relevant, verifiable and representative attributes of products or services (a comparison of several attributes must generally be made, one of which is usually price – comparing a single attribute is allowed only if all of the conditions mentioned above are met), does not pose a risk of consumers confusing the entity whose products or services are being advertised with the competition (products, services, trademarks, companies, other unique markings), does not harm a competitor's company, products or services, trademarks, other unique markings, activities and conditions by providing false information, if it is designed to gain benefits due to a competitor's trademark, brand name, company, other unique markings or designation of origin of his or her products, and if it offers products or services as an imitation or reproduction of products or services protected by a trademark or brand name. Advertising medicaments designed for people, health care equipment and health care services by comparison is permitted only if aimed at people authorized to prescribe such medicaments, use such health care equipment or such provide health care services – it cannot therefore be directed at layman public.

3 *Reporting Duty, Product Labeling, Price Information*

Sellers have numerous responsibilities related to providing information to consumers. They are, among other things, required by Section 9 of the Consumer Protection Act to inform consumers about the attributes of the products or the nature of the services being offered, about how the products are to be used and maintained, about potential risks if the product is not used or maintained properly, and about risks related to the services being offered. The reporting duty holds even if said information was not exacted from consumers.

Proper information is defined as information that satisfies all of its purposes (it should therefore be complete or sufficient from the point of view of consumers' interests and needs). Providing biased and/or misleading information is considered deceiving consumers. The Act does not expressly state when sellers are to provide information. The logic behind the issue dictates that information should be provided so that consumers can use it in making a decision about buying a product or service; such information should therefore be provided before a purchase agreement is concluded. The Act further requires that sellers ensure, if need be, that the provided information be clear and included in an enclosed written manual – depending on the nature of the product and the way and period for which it is to be used. Contrary to information received prior to the sale, consumers obtain this kind of information together with the product when they purchase it, i.e. ex post. An important obligation is imposed upon sellers by Section 12 of the Consumer Protection Act, which stipulates that sellers have to inform consumers clearly and unequivocally about the prices of the products and services being offered. Sellers must do so in one of two ways:

- to set clearly the price on the product,
- to make easily available an information about prices of products and services (e.g., on a bulletin board).

The Consumer Protection Act refers to the provisions of Section 13, paragraph 2 of Act No. 526/1990 of the Czech Code (the Pricing Act), which requires everyone selling consumer products to end customers to mark their products with a price valid at the time the offer is made, applicable to the given amount of such product and valid under the conditions in effect at the time; alternatively, sellers can make information about prices available in the form of pricelists, bulletin boards or in another acceptable manner.

The Pricing Act calls for a more specific written price labeling (visible location) – the Consumer Protection Act, on the other hand, says that “information must be made available in an acceptable manner”. The Pricing Act should be considered a special statute (it applies only to consumer products, not to services); as a result, products should be labeled in writing. Prices for services can be made available in an alternative acceptable manner.

Section 3, letter c) of the Consumer Protection Act requires sellers to sell products and provide services for prices negotiated in accordance with price regulations and to use correct prices in the course of the sale. When a final settlement of any products and services sold is made in cash, the total amount is to be rounded to the nearest valid nominal value of currency in circulation.

Question:

Can a seller be absolved of the responsibility to provide information?

Answer:

The Consumer Protection Act stipulates that the obligation to provide information about the attributes of the products and the nature of the services being offered exists even if the manufacturer or supplier did not provide this information to the seller. The Act assumes that the sellers are professionally qualified and should therefore be able to provide said information even when even in the case of absence of any information. The only case when sellers are not required to provide information is if such information is generally known or obvious.

Question:

How do products have to be labeled?

Answer:

Another kind of reporting duty is the obligation to label products clearly and visibly. Sellers must pursuant to Sections 9 to 11 of Act No. 634/1992 of the Czech Code (the Consumer Protection Act) ensure that the products they offer are labeled directly and in a clear and visible manner. Said Act lists the type of information that must be provided:

- by the description of product and manufacturer (supplier, importer);

- by the information about the weight, amount or size of the product and additional information required to identify or use it;
- labels on clothing must include information about the materials from which it was made while labels on shoes must provide information about the materials used to make its main parts;
- food labels must include information about minimum shelf life or an expiration date in case of perishable products;
- if there are any symbols used when labeling products, the seller should make a legend available to consumers, if need be;
- if the information about products is provided orally, it must be in Czech;
- sellers are required to inform their customers about the prices of their products and/or services valid at the time the offer is made. As a result, products must either have a price tag or the pricing information must be made available in another acceptable manner.

Section 10, paragraph 5 of the Consumer Protection Act prohibits changing or removing products labels (it refers to the above labels) and other information affixed by the manufacturer or importer. This includes, for example, a widely used practice of putting price labels on top of expiration dates; however, it also applies to false information communicated orally.

Packaging whose largest side is smaller than 10 cm² must have labels with the following information at a minimum: the food class, group or subgroup, the amount and the expiration date or shelf life.

In case of perishable foods, the expiration date is the last day on which – assuming the prescribed conditions of storage have been met – the product has its specific properties and meets food safety standards. Food products may not be sold after this date. For all other food, the expiration date is the last day on which – assuming the prescribed conditions of storage have been met – the product has its specific properties and meets food safety standards. Food may be sold after this date only if it meets food safety standards and is clearly marked.

The Consumer Protection Act imposes several other reporting duties on sellers. One of them is the obligation to inform consumers about the conditions, extent and procedure for lodging disputes.

Question:

What are the requirements as far as information about prices?

Answer:

The Consumer Protection Act lists the different ways in which consumers can be deceived by price information. Price information or the fact that such information is incomplete or missing may not lead consumers to the conclusion that:

- price is lower than it really is (an example may be placing price tags so that it is not clear which price tag belongs to which product, quoting retail prices without VAT or listing prices of products only, i.e. excluding their packaging),
- prices are set depending on circumstances which are in fact irrelevant (using a wholesale price, manufacturer's suggested retail price, price in another currency, price for a different stock-keeping unit without making a clear note of such practice),
- price includes delivery or other services, which need to be paid for separately,
- price has been or will be increased, reduced or remain unchanged even though it is not true (advertising a temporary price reduction, sales prices or introductory prices without making appropriate price adjustments, touting products as "we did not increase our prices" even though the prices have been changed, or "liquidation sale" even if the given products are offered under the same terms on a permanent basis),
- relationship between the price and useful value of a given product or service and the price and useful value of a comparable product or service is different from reality.

Question:

May sellers charge prices higher than those stated in their offer?

Answer:

The Pricing Act stipulates that sellers must inform consumers of the price valid at the time the offer is made. In other words, the provider of a service may not charge a price different than quoted. Demand that you purchase products for the price listed on the price tag!

4 *Product Demonstration, Receipt, Warranty Certificate*

Section 15, paragraph 1 of the Consumer Protection Act requires sellers to demonstrate a given product at the consumer's request. This obligation depends on the nature of the product, which needs to allow for such demonstration to be made.

Demonstration could be defined as simply showing the product to the consumer (e.g., by taking it out of the packing) or demonstrating it, i.e. testing its functionality or showing to the customer how it works.

This obligation is an extension to the reporting duty because the consumers may not always be able to form a good opinion about a given product based only on second-hand information. This obligation is also useful in fighting defects as the consumer can locate them before he or she enters into a purchase agreement.

When requested by the consumer, the seller must provide to the consumer a written warranty document, the so-called warranty certificate.

Sellers are not required to provide a receipt automatically. However, they have to do so when requested by the consumer. When making warranty claims, a receipt is the best (albeit not the only one) way of proving that the product in question was purchased from that particular sellers and that the warranty period has not expired as of that time. If a receipt is not available, a warranty card or an affidavit can be used.

Receipts shall contain the following requisites: seller's identification information, date of purchase, product or service description and purchase price. An incomplete receipt may be insufficient for making warranty claims. Receipts for products to be delivered to the consumer shall also detail the place and time of delivery.

If a consumer is buying used and modified products, products with a small defect or products whose useful value is otherwise limited, such limitation shall be clearly stated on the receipt unless the nature of the sale makes it obvious.

It is advisable to request a receipt in all instances, especially when purchasing big-ticket items. Consumers should keep the receipt at least until the end of the warranty period. When making a warranty claim consumers are required to prove that the product in question was purchased within a certain period of time at that particular seller, which is most easily done by presenting a receipt.

However, the Act does not require that a consumer be in the possession of a receipt in order to be authorized to make a warranty claim. He or she may use a third person's oral testimony, his or her own written affidavit containing as many details about the purchase as possible (date, place, price, type of product, witnesses, etc.) or a third person's written affidavit with similar details. Should the seller fail to recognize such alternative proof of purchase, the case can be adjudged by court only.

Question:

Is it legal to insist that a warranty claim will be handled only if a warranty card is presented?

Answer:

A warranty card is but a proof of warranty issued to the buyer – as a result, it is not legal to insist that it be presented in order for a warranty claim to be handled if the seller's responsibility for defects can be demonstrated otherwise (receipt, testimony by a witness). Of equal evidentiary value as far as handling warranty claims could be a document proving that a product has been purchased or service obtained. According to Section 16 of the Consumer Protection Act, such documents must include the date of sale, product description and price. If a product is delivered to the consumer after his or her purchase, the date and place of delivery shall be specified as well. Service providers are obligated to provide such document only at the consumer's request.

Whenever sellers sell substandard products, they are required to clearly state on the receipt, if issued, that the products are of lower-than-standard quality.

Question:

When does the warranty period commence?

Answer:



In case a product includes a warranty card, the consumer may have it validated in the store immediately after having the product demonstrated and tested. It is completely unnecessary to take a tested product home planning to come back in a couple of weeks to have the warranty card validated. The warranty period starts on the date of purchase so it makes sense requiring that the warranty card be validated at that time.

There is an exception to the rule: products that must be installed by a specific person or company, such as an authorized service center charged with installing dishwashers, washers or stoves. Warranty certificates are in such cases validated by the service staff.

Question:

When is a seller obliged to issue a receipt?

Answer:

Sellers are not obliged to provide receipts automatically; however, they shall do so at the customer's request. This document proves that a given product was sold or that certain services were rendered at the store at a particular time and for a given price. If a seller fails to provide a receipt automatically, the consumer should by all means ask for it.

Question:

What kind of information do receipts have to include?

Answer:

Receipts should contain the following information:

- product or service being sold (information about the exact product or service – type, class, serial number, etc.);
- date of purchase; or service being sold
- seller's identification information (e.g., store stamp or identification information in the header of the receipt – IČO, signature, address is also advisable albeit not required by law);
- purchase price.

Question:

Is it possible to make a warranty claim without a receipt?

Answer:

Yes, it is possible. However, the consumer must have a proof of purchase.

Question:

What should I do if I lose my receipt?

Answer:

Proofs of purchase, including other documents related to the purchase goods or services, shall be retained for the entire duration of the warranty and post-warranty service period. Should such documents be lost, the customers may exercise their rights related to claims of defects to the same extent using the warranty card issued for the underlying product with all required information filled out (type of product, date of purchase, seller's identification information). Another document that can be used to accomplish the same is a written affidavit by a person who was personally present at the time of the purchase. However, the seller is not required to accept such affidavit. The customer is then left with no other way of exercising his or her rights than going through the courts. If you plan on buying a big-ticket item, bring a witness with you. Friends or acquaintances can help you in case of judicial proceedings initiated if a warranty claim is denied. Witnesses can also confirm the date and place of purchase.

5 *Prohibition of Discrimination against Consumers*

Discrimination can be defined as differentiating between parties of equal standing in a way that harms one of them. It is an assault on equality, a denial and limitation of such parties' equal rights. Consumers shall be all afforded the same kind of treatment. None of them can get preferential treatment (positive discrimination) or be put at a disadvantage (negative discrimination) vis-à-vis others.

The most general prohibition of discrimination is provided for in articles 1 and 4, paragraph 3 of the Charter of Basic Human Rights and Freedoms: "People are free and equal in their dignity and rights" and "Statutory limitations of basic human rights and freedoms must apply equally in all cases which satisfy the prescribed conditions."

Prohibiting discrimination of consumers is designed to eliminate business practices favoring one particular group of consumers over others. It could seem at the first sight that the laws are trying to establish the obligation to enter into identical purchase agreements with all consumers – however, the requirement that identical or comparable agreements be entered into applies only when the same circumstances exist so that equal rights (or opportunities) are preserved.

An amendment to the Consumer Protection Act – Act No. 104/1995 of the Czech Code – made significant changes to the law. Section 6 of the Consumer Protection Act requires service providers to act in accordance with good manners, namely "refrain from discriminating against consumers in any way." Discrimination is therefore defined as an act going against good manners.

"Good manners" is a term commonly used in private law where it is tied to the validity of legal acts. It is the kind of behavior conforming to generally accepted rules and principles of decency.

A typical discriminatory behavior is tying the sale of beer in restaurants to the purchase of food as it would be quite difficult to claim that such business practice is common even if announced beforehand.

Discrimination is permitted in special cases (selling alcohol to drivers and adolescents, for example) as stipulated in Section 1, paragraph 2 of the Consumer Protection Act.

Question:

What are the different forms of consumer discrimination?

Answer:

Several examples follow:

- using of double prices (one price for foreigners and another one for locals, for example),
- tying of the sale of one good to the purchase of another,
- physical violence by the seller or the security guard(s),
- discrimination against members of various ethnic minority groups, seniors, etc.

If a consumer comes into contact with discrimination, he or she should report it to the nearest regional inspectorate of the Czech Trade Inspection.

If subjected to grave discrimination, the consumer should press criminal charges at the nearest police station – i.e. the police station in whose circuit the said discrimination was experienced. The police report should include the name or description of the person being charged with discriminatory behavior as well as a detailed account of the circumstances and witnesses' contact addresses.

It should be noted that only the police are authorized to check identification documents, personal effects, luggage, etc. Security guards in a store are not authorized to require that an identification document be presented nor can they search anyone's personal belongings. Consumers can always ask for the police to be called in case they are suspected of theft.

Question:

Is providing discounts to a certain group of consumers discriminatory?

Answer:

This type of discounts is usually given to socially deprived consumers, including students, retirees, disabled people, soldiers – i.e. people who are not gainfully employed. This behavior is not considered price discrimination. Prices are in certain instances stipulated directly by law (e.g., the rates of Czech Railways).

Volume discounts – for example “buy nine, get the tenth for free” or “get 10% off on purchases over CZK 1,000” – are also not considered discrimination because all consumers are eligible for the same discount if they meet the conditions (buy a larger amount of goods).

Lastly, discrimination also includes handling orders in a different order than in which they were received. Examples of such behavior are an express car repair performed at the expense of other customers who have to wait longer as a result or a preferential sale of tickets to out-of-Prague visitors. The first case will be considered discrimination if the express car repair is performed under the same conditions as all the other repairs (i.e. for the same price, among other things – a “buddy discount”). The nexus with private law is also of import: the negotiated delivery date is binding for the service provider. If all consumers are eligible for an express car repair under the same conditions (e.g., an obligation to pay a surcharge), it will most likely not be considered discrimination. A preferential sale of tickets to out-of-Prague visitors would also be considered discrimination because consumers are discriminated on the basis of where they live. Other consumers cannot meet the same conditions (moving out of Prague is not a relevant possibility); the behavior should therefore be considered unacceptable.

6 Defects, Liability for Defects

Consumers shall claim defects as soon as they appear, without unnecessary delay (Section 599 of the Civil Code – claims of defects). Responsibility for defects covered by warranty will expire if no claim is made during the warranty period. Warranty starts at the time a product is delivered to the buyer or put into operation in line with the warranty conditions outlined on the warranty certificate.

When a claim is made, a decision has to be made as far as legitimacy and whether the claimed defects can be repaired (remedied) or not.

Defects – repair possible

In case of repairable defects, the buyer has the following rights:

- to have the defect repaired or remedied
- to have the entire product or its defective part (in case only such part is defective) replaced
- to withdraw from the purchase agreement – only if the product cannot be used because the same defect remains after two repairs or if multiple defects are observed

Defects – repair not possible

In case of irreparable defects, i.e. when a product cannot be repaired or has not been repaired within 30 days, the buyer has the following rights:

- to withdraw from the agreement
- to have the product exchanged
- to obtain a corresponding discount from the purchase price (in case of defects that do not prevent the product from being used)

The choice of remedy in case of irreparable defects is entirely at the buyer's discretion.

Sellers guarantee to the buyers that the product being sold at the time of delivery complies with the purchase agreement. This means that the product is without defects. In addition to that, the products being sold must be of quality and useful value stated in the agreement, claimed by the seller, manufacturer or their respective representatives, expected from advertising, or common for the given type of product. The products have to meet all statutory requirements, must be sold in corresponding amounts, measure or weight and be fit for the purpose stated by the seller or for which such products are usually used.

If a product does not comply with the purchase agreement at the time of delivery to the buyer, the buyer may make a warranty claim. This includes, for example, cases when a given product is advertised to have certain attributes which it in reality does not possess.

Question:

Are there cases when the seller is not responsible for defects?

Answer:

According to Section 616, paragraph 3 of the Civil Code, the seller is not liable for defects (and other departures from the purchase agreement) about which the buyer knew prior to taking possession of the product or caused them himself or herself. However, the burden of proof rests with the seller.

Another important exception to the responsibility for defects rule is the exclusion of warranty when a product causes to malfunction as a result of regular wear and tear as stipulated in Section 619, paragraph 2 of the Civil Code. Buyers therefore cannot return shoes after wearing them for a year claiming that the sole has worn down or a T-shirt whose colors are not as bright as they used to be after being washed thirty times. Naturally, consumers cannot make a claim in connection with products that have been consumed (a candle has burned, a can of spray has been used up, food has been eaten). This issue also relates to the life of a product. This term is often confused with warranty period. If a given product (consumer goods, etc.) comes with a two-year warranty by law, it does not mean that it will last at least two years when used. It is quite obvious that some products cannot last for so long; moreover, the life of a given product frequently depends on how intensively it is being used.

Sellers are also not liable for defects due to which the consumer obtained a discount. However, the consumer must be warned in advance of any such defects and the same must be clearly noted on the receipt.

The last important special case of responsibility for defects is outlined in Section 623 of the Civil Code, which covers installations and setup. By law, sellers are liable for defects caused in the course of an unprofessional installation or setup under the condition that the installation or setup was negotiated in the purchase agreement and performed by the seller or person authorized by the seller at the seller's responsibility. Sellers are also responsible for defects caused by an unprofessional installation or setup if it was made by the buyer and the defect was caused as a result of incorrect (or incomplete) instructions in the user's manual. Naturally, sellers are not responsible for other cases where defects are caused by an unprofessional installation or setup out of his or her control.

Question:

How is it with defects on discounted products?

Answer:

Real world is full of situations where sellers refuse warranty claims on merchandise being sold at a discount. The sellers argue that discounted products are not covered by warranty and that the consumers have to take that into consideration when making a purchase. Czech laws based on the applicable European directive say otherwise. First, there is a difference between discounts given during various sales when perfectly good products are sold and discounts granted on the basis of products suffering from certain defects. According to Section 618 of the Civil Code, sellers may sell products only with such defects, which do not prevent it from being used for the stated purpose. Moreover, sellers are obligated to sell such products at a lower price than that of defect-free products. Warranty does not cover defects because of which a discount has been given. Products with defects rendering it useless cannot be sold at all, i.e. not even at a discount.

If a seller satisfies the above obligations, having sold a product with defects of which the consumer was informed is not a violation of the purchase agreement. However, if a product is found to suffer from a different defect, i.e. one of which the consumer was not informed, a warranty claim may be made. Warranty claims may also be made when the purchase agreement is otherwise violated.

In summary, when sellers sell products at a discount, they are responsible for defects (including warranty claims) to the same extent as when the same products are sold at full price. This applies especially to sales during which the seller fails to inform consumers of defects. If the seller informs the buyer that a given discount product suffers from a certain defect, the seller's responsibility for such defect is considered discharged at that time. However, it is still the seller's responsibility to prove – when a warranty claim is made – that the claimed defect is the one of which the consumer was informed. Should the seller fail to do so, he or she is responsible for the defect for the entire duration of the warranty period, which is in case of consumer products two years.

7 *Warranty*

In order to be able to determine the legitimacy of warranty claims, it is very important to offer some details related to warranty.

- Sellers are responsible for all defects deemed a violation of the purchase agreement after the product in question has been delivered for the entire duration of the warranty period; this does not apply to perishables and used items.
- Warranty does not apply to regular wear and tear. (The law specifically warns that warranty period should not be interchanged with the life of products, which can be a lot shorter.) Discounted products are covered by warranty only to the extent of the defects for which a discount was not given.
- Sellers are responsible for defects on used products to the extent of their use prior to sale. (In real world, this means that three conditions should be met in order for a warranty claim to be successful:
 - to prove that the product did not suffer from the given defect at the time of delivery,
 - to prove that said defect has not been caused by regular wear and tear,
 - to prove that no discount was given for the defect in question.)

The warranty period commences at the time the product is delivered to the buyer. Warranty claims of defects shall be made only during the warranty period. The Civil Code sets warranty periods as follows:

- 3 years for buildings and other structures
- 18 months for construction works at least
- 24 months for consumer goods
- 6 months for custom-made products
- 3 months for repairs and adjustments

If the product being sold, its packaging or instructions enclosed inside contain a use-by date in accordance with special regulations, the warranty period ends at the expiration of such period. However, the warranty period should not be confused with the life of a given product, which is subject to different influences (hours of operation, number of recharge cycles, etc.).

Sellers are required to provide a written proof of warranty (warranty certificate) at the consumer's request. This warranty certificate shall include the seller's identification information, business ID number and headquarters (for companies) or address (individuals). A receipt is always sufficient unless specific warranty conditions apply.

The time from when a warranty claim is made until the buyer is required to pick up the repaired product is not counted into the warranty period. It is not acceptable for sellers to extend the warranty period only by the amount of time the product spent in the repair shop and not by the period of time at the end of which the consumer should pick up the product at the store where the warranty claim was made. In case a replacement is provided, the warranty period resumes when the replacement is delivered to the consumer. The same applies if a part covered by warranty is replaced.

The Civil Code expressly states that any terms negotiated between the seller and the buyer before a warranty claim is made whereby the right to make warranty claims would be waived are invalid and unenforceable. This also applies to cases where the seller enters into a purchase agreement pursuant to the Commercial Code in an effort to circumvent consumer rights arising under the Civil Code and the Consumer Protection Act.

Question:

When does the warranty period commence?

Answer:

The warranty period starts at the time the product is delivered to the buyer. However, if the product is to be installed by a company different from the seller, the warranty period commences from the date of such installation if the customer ordered it within 3 weeks from taking delivery of the product and allowed for the installation to be made. (Consumers should insist that the authorized service technician confirm the written order form upon installation; this order form should then be retained until the end of the warranty period.)

Question:

What is the warranty period for consumer goods?

Answer:

The Civil Code stipulates that the warranty period for all consumer goods is 24 months. The warranty period and the expiration date should not be confused. The same applies for products with a use-by date; this date may come sooner or later than the end of the warranty period. If the product being sold, its packaging or instructions enclosed inside contain a use-by date in accordance with special regulations, the warranty period ends at the expiration of such period.

Question:

What is the warranty period for custom-made items?

Answer:

When a product is custom-made, the seller is responsible for defects discovered at the time of delivery to the consumer (buyer) as well as those discovered during the warranty period, which is 6 months (three years for buildings). The seller is also responsible for the ordered item having the attributes ordered by the consumer.

Question:

What is the warranty period for repairs and adjustments?

Answer:

The law sets the warranty period for repairs and adjustments at three months unless negotiated otherwise or a different warranty period is called for in special regulations; the warranty period for construction works is at least 18 months. The provider may extend the warranty period by way of a declaration on the warranty card. All parts used in the course of a repair are covered by a 24-month warranty.

Question:

When I buy used items, with how long of a warranty period can I calculate?

Answer:

The law stipulates that buyers may make warranty claims within 24 months of taking delivery of the product; however, the seller may shorten the warranty period with the buyer's consent to no less than 12 months.

Question:

When I buy discounted items, with how long of a warranty period can I calculate?

Answer:

Consumer goods are covered by a standard 24-month warranty; however, the Civil Code stipulates that items sold at a discount are covered by such warranty only to the extent of defects of which the consumer was not informed at the time of sale.

Question:

Is it possible to extend the warranty period?

Answer:

Section 620, paragraph 5 of the Civil Code states that the seller shall provide a warranty period which is longer than the one called for by law by making a declaration to that effect on the warranty card. Warranty may be extended both as far as content whereby the buyer's rights under the warranty are extended (e.g., the right to get a replacement whenever a legitimate warranty claim is made) and time-wise, i.e. by extending the warranty period. Whenever that is the case, the seller is obligated to note the conditions and scope of the extension on the warranty card.

However, when a seller notes the conditions and scope of the warranty on the warranty card, the terms of the extended warranty may differ from the statutory warranty. This means that the seller may at the termination of the statutory warranty period (two years from the time the product in question is delivered to the buyer) tie the extended warranty to the fulfillment of certain conditions (e.g., regular inspections) or limit its scope only to, for example, labor with spare parts covered by the buyer.

It should be noted that the seller is authorized to set the terms and scope of an extended warranty in the warranty card. In some instances, the warranty codes issued by sellers are not binding for consumers. In most cases, consumers are not told of their existence at the time of sale. Consumer rights pertaining to the seller's responsibility for defects cannot be limited even with the consumer's consent – as a result, any "consent" with said warranty codes is irrelevant for legal purposes. Lastly, the extended warranty conditions on the warranty card should not be in contradiction to the good manners.

8 *Warranty Claims: Product and Services – I*

Consumers should address warranty claims with the seller of the product or at the service center identified on the warranty certificate. Claims are not to be made with suppliers or manufacturers even if sellers made reference to them! The seller shall accept a claim at any branch (store, office, etc.) where the circumstances permit it subject to the line of the products sold or services offered. It is advisable to make copies of all documents and materials prior to commencing warranty proceedings. Given the risk of disputes at a later time, warranty claims are best submitted in writing, especially when decision is not made by seller right away. After the claim is resolved, insist that the seller confirm that a repair has been made and state how long it took. If the claim is not handled, including required repair, if any, within 30 days (unless agreed otherwise), the defect is deemed irreparable and the buyer becomes entitled to all rights related to irreparable products.

The warranty document should contain the following information at a minimum:

- buyer's and seller's (or receiving entity's) identification information,
- description of the given product, including the date of sale (we recommend that all big-ticket items be described in as much detail as possible),
- detail of the departure from the purchase agreement and defects, if any,
- consumer's preferred manner of handling the claim,
- date of claim and the expected date of resolution,
- buyer's and seller's (authorized representatives or service centers) signatures and stamps, if any.

Sellers often ask consumers to give them their receipt when a warranty claim is made, which is completely illegitimate. However, sellers are authorized to inspect the receipt in order to verify where the product was purchased and the date of sale and to make a copy at their own expense.

Question:

How should warranty claims be made?

Answer:

Warranty claims should be made in writing to provide evidence in case of a court case at a later time. The claim should specify the defect or defects and note the statutory right exercised in connection with such defect.

If the seller rejects the warranty claim, the consumer should ask for a written statement including the seller's reasons for doing so. When a warranty claim is deemed legitimate, the seller is obligated to handle it without undue delay but no later than 30 days from the time of the claim.

If the handling of the warranty claim includes a repair, consumers should insist that they be given a written statement of when the repair was made and how long it took.

Question:

What can consumers ask of sellers in connection with a warranty claim?

Answer:

- repair/removal of defect: if the product in question suffers from a defect which can be fixed. However, the seller is authorized to exchange the defective product for an identical new and defect-free product instead of repairing the defective one.
- replacement of product with the products which have not been used as of yet. The type of defect is irrelevant. However, if the seller does not have the given type of product anymore, thus rendering a replacement impossible, the buyer cannot but return the product for a full refund.
- replacement of products or the purchase agreement declared null and void, i.e. the buyer returns the product for a full refund: if the product suffers from a defect, which cannot be fixed and precludes the item from being used to the same extent as a product without defects. If the product suffers from a defect, which can be fixed, but the defect reappears at least twice after being corrected, if the product suffers from 3 or more defects, or if the defect is not fixed within 30 days from the time of the claim, it is at the consumer's sole discretion whether he or she wants a replacement or a refund!
- replacement of the part of product, when a given part of the product suffers from a defect.
- reasonable discount of the purchase price: if the defects cannot be fixed but they do not prevent the product from being used.

Question:

What are the deadlines for settlement of warranty claims?

Answer:

Section 19, paragraph 3 of the Consumer Protection Act stipulates that the seller or the seller's authorized personnel are required to make a decision immediately or, in complicated cases, within three business days. However, this deadline is not inclusive of the time required for a professional assessment of the defect, which depends on the type of the product or the nature of the service. Warranty claims, including corrections, shall be handled without undue delay but no later than 30 days from the date of the claim. The seller may agree with the consumer on a later deadline.

The consumer is at the expiration of the 30-day deadline entitled to request that the product in question be replaced for a new one or withdraw from the purchase agreement and obtain a full refund. The seller must not reduce the refund in any way – for example, because the cost of the product dropped in the meantime (a common occurrence in the world of consumer electronics).

Question:

What are the risks that consumers face when filling out pre-printed warranty claim forms?

Answer:

In general, using pre-printed warranty claim forms is useful for both consumers and sellers. They are expedient but can also contain something other than all the requisites. The small print sometimes contains many provisions or references to the claim regulations, with the content of which the consumer has not been familiarized. A hasty signature may cause the consumer to agree to being charged a fee for the seller's handling of a rejected warranty claim or to a limitation of his or her ownership rights because the seller becomes entitled to retain the product until the fees for handling rejected warranty claims are paid (the entitlement to these fees is dubious at best). These provisions are most commonly found with sellers of cellular phones, electronics and computer technology.

As always, consumers should read what they are about to sign before they sign. Should the seller refuse to handle the consumer's warranty claim without his or her signature on the warranty claim form, the consumer should contact the nearest inspectorate of the Czech Trade Inspection. Consumers can also write warranty claims by themselves, include the date and place of purchase, price, detailed description of the defect, and the preferred manner in which the claim should be handled. The seller should then confirm its receipt on a copy of the warranty claim and date the same.

Question:

What are seller's typical arguments against warranty claims?

Answer:

"You do not have the original packaging and therefore cannot file a warranty claim." No law says that the consumers have to retain the packaging from all products; similarly, no law, rule or regulation stipulates that products be presented in their original packaging when making a warranty claim. The warranty claim is about the product, not the packaging!

"This is a manufacturing defect; contact the manufacturer." It is irrelevant who made the product and what caused the defect – only the seller is responsible to the consumer.

"The product was sold at a discount; you do not get a warranty." Warranty does not cover only perishables and used items; it does cover discounted products.

Only our supervisor handles warranty claims and he is not here at the moment. The Consumer Protection Act requires sellers to have a person authorized to receive warranty claims present at the place of business during business hours.

"We have installed a brand new part into your product instead of a defective and used one; you will have to pay us ____ CZK." The seller is not entitled to compensation even if the replacement of a part increased the value of the product.

By claiming goods to be defective, we are attempting to exercise our rights. However, such exercise will be successful only if made in a timely manner, at the correct location and in line with the stated rules.

8 *Warranty Claims: Product and Services – II*

Sellers are required to inform consumers about the scope, conditions and manner in which warranty claims are to be made, including the designated place, and about warranty repairs. When selling goods or providing services outside of a regular point of sale, sellers must provide their identification information (name and the address where warranty claims can be made) to consumers upon request.

It should be noted that during the first six months from the sale, the burden of proof is with the seller, i.e. the seller shall prove that the product is in compliance with the purchase agreement or that the declared departure from the purchase agreement was caused by improper use or maintenance on the part of the buyer. However, only courts have a final say in all disputes.

In months 7 to 24, the warranty claims procedure is as follows:

- If claiming defects that can be fixed, the buyer has the right to have it properly fixed for free and on time; the seller is obligated to correct the defect without undue delay. Should this be impossible, the buyer may ask for a corresponding discount or withdraw from the purchase agreement.
- If claiming defects that cannot be fixed and prevent the product from being used to the same extent as a defect-free product, the buyer may demand a replacement or withdraw from the agreement. The same rights apply if the defects can be fixed but the buyer cannot use the product as the defects keep recurring after each repair or there are multiple defects. (A recurring defect is defined as a defect that reappears after two repairs. The multiple-defects condition is deemed met when the product has 3 or more defects at the same time or if a total of 3 defects appear shortly after each other causing the product to spend more time in the seller's repair shop than being used by the consumer.)
- If the consumer claims other irreparable defects and does not want a replacement, he or she may ask for a reasonable discount or he can withdraw from the agreement.

Question:

What should I do when asking for a repair?

(A repair is defined as removing defects, damage, wear and tear, extending life or modifying products for different use. As a result, creating a new item can never constitute a repair.)

Answer:

- ask for a document indicating that you left your product to be repaired and the time by which the repair will be done.
- ask for information about how to proceed if a warranty claim is to be made
- keep the document proving that you left your product to be repaired.

Question:

When can a warranty claim related to repairs be made?

Answer:

- repairs to buildings: within 18 months,
- other repairs: within 3 months.

These warranty periods are statutory, i.e. they cannot be shortened or dispensed with by agreement or otherwise. On the contrary: the provider is authorized to extend the warranty period by making a declaration to that effect on the warranty card.

Question:

What can consumers ask of providers in the course of a warranty claim?

Answer:

- repair of the defect is free of charge: if an item is fixed or modified incorrectly. The provider is obligated to fix the defect by the agreed-upon deadline. Should you fail to agree on a deadline, the provider is obligated to fix the defect without undue delay (the exact time will depend on the scope of the defect and the difficulty in fixing it),
- a discount is given or the repair agreement is declared null and void:
 - if the repair suffers from an irreparable defect,
 - if the provider failed to remove the defect by the agreed-upon deadline,
 - if the same defect recurs after being repaired.

It is up to the consumers whether they want to declare the agreement null and void or ask for a refund. The provider is obligated to refund to the consumer the price paid for the repair less value obtained (e.g., building repairs – the value of the material left behind at the construction site).

Question:

What are the different ways to handle warranty claims?

Answer:

If the claim relates to a product, there is a difference between claims of defects and other departures from the purchase agreement discovered after taking delivery of the product and claims of defects and other departures from the purchase agreement which were apparent at the time of delivery.

The seller is obligated to cause the product to comply with the purchase agreement free of charge and without undue delay, either by providing a replacement or fixing the defective product. A replacement is defined as an exchange of a defective product for the same product but without defects, not some kind of mandatory “purchase” of a product or products from the seller for the same price. If the product cannot be fixed or replaced (irreparable defect and the seller does not have the product in stock anymore), the buyer can ask for a corresponding discount or withdraw from the purchase agreement. It is entirely at the buyer’s discretion which option he or she selects. In case the seller wants to be absolved of responsibility, he or she must prove said facts.

Section 616, paragraph 4 of the Civil Code stipulates that if a departure from the purchase agreement is discovered during the first six months of delivery, it is considered to have existed at the time of delivery. In other words, defects or other departures from the purchase agreement in the first six months of the warranty period are considered to have been there since the start (delivery) unless such presumption goes against the nature of the product or the seller proves that the defect or other departures from the purchase agreement occurred after delivery. This is critical particularly when buying used products.

Section 19, paragraph 3 of the Consumer Protection Code states that if the seller fails to handle a warranty claim within 30 days from the date of the claim, the buyer is entitled to the same rights as if the defect were irreparable (as detailed above).

Question:

What should I understand under the term rejected warranty claim?

Answer:

Warranty claims can be resolved in one of two ways. The seller or service center either accepts the buyer’s warranty claim and complies with his or her conditions or rejects the warranty claim. The seller may reject a warranty claim only if it is illegitimate, i.e. if the seller is not responsible for the defect or other departures from the purchase agreement or if no defect or departure from the purchase agreement exists.

Sellers are not responsible for departures from purchase agreements only if it is expressly stated by law. The Civil Code expressly prohibits consumer purchase agreements to include any exclusion or limitation of consumer rights related to making warranty claims or claims against the seller’s responsibility for damage. Any agreed-upon stipulations going against said provisions of the Civil Code (irrespective of whether in the form of an agreement, business terms and conditions, warranty code, declaration on a warranty card or otherwise) are invalid and unenforceable.

As a result, sellers cannot reject warranty claims for reasons other than expressly permitted by law – it is therefore not possible to reject a warranty claim just because the consumer does not have the original packaging or because he or she lost the receipt and kept only the warranty card (or vice versa).

Another frequently asked question remains: is the seller entitled to charge the buyer for evaluating his or her claim, which later proves to be illegitimate? If the warranty claim proves to be illegitimate, the seller is probably authorized to ask the buyer for compensation of properly documented expenses incurred in the course of handling such warranty claim but not some kind of fixed fee.