

Consumer Protection in Electronic Commerce

Disposition 270/2020 issued by the Secretariat of Interior Commerce of the Productive Development Ministry published in the Official Gazette on September 8th incorporates Disposition 37 dated as of July 15th, 2019 issued by the Common Market Group of the Southern Common Market (MERCOSUR), regarding the protection of consumers in electronic commerce (“**Mercosur Disposition 37**”) and states that it should become effective as from 180 days from its publication in the Official Gazette, March 7th, 2021. Additionally, on the same day Disposition 271/2020 issued by the Secretariat of Interior Commerce of the Productive Development Ministry (“**Disposition 271**”) was published, setting forth publicity obligations for adhesion contracts (also called “standard form contracts” or “boilerplate contracts”).

Mercosur Disposition 37 aims to harmonize the consumer protection legislation in electronic commerce within the MERCOSUR. Therefore, the Disposition updates and complements the Argentine related regulations, addressing the following points, among others:

- During the whole transaction process, it should be granted the consumers’ rights to clear, sufficient, accurate and easily accessible information about the supplier, the product or services and the transaction performed.
- Providers must publish in their websites and other electronic media, certain information such as tradename and corporate name, their address and electronic address, customer service mail, price along with taxes and discrimination of any additional costs, among others.
- Provider shall ensure easy and visible access to the agreement terms. On this regard, the disposition specially provides that it must be ensured for consumers that said terms can be read, saved and/or stored in an unalterable manner.
- As for the contract terms, the Disposition sets forth that the agreement must be complete, clear and legible without mentions or references to texts that are not given simultaneously. In addition, a contract summary emphasizing the most significant clauses shall be presented to consumers before its execution.
- Before executing the transaction, the consumer should be provided with the technical means to verify and correct errors of the data entered. Also, a mechanism should be adopted to grant the express confirmation of the transaction.
- An efficient service for consumers’ queries and complaints should be granted.

Mercosur Disposition 37 sets forth its application to all providers located or established in any of the States Parties or which operate under any of its Internet domains and

Disposition 270/2020 establishes in case of non-compliance the sanctions foreseen in the Consumer Defense Law No. 24,240.

Disposition 271 expressly refers to Section 38 of the Consumer Defense Act No. 24,240, which regulates adhesion contracts. In this respect, the regulation provides that suppliers engaging consumers by standard form contracts should publish them on their websites, as well as any other general or particular term. In addition, and among other issues, the following is provided:

- The terms applicable to the different products and/or services should be published in the website as well as all the information related to the promotions and bonuses offered, with precise indication of the start and end dates, their modalities, conditions and limitations.
- The adhesion contract terms published must be clear, transparent, integrated not admitting references to other documents and / or websites. In the event that there is a private access or a registered user on the supplier's website, the contract executed with said consumer and the special offers or promotions that have been offered and agreed upon should be available under that section.
- The adhesion contract and the terms and conditions should be displayed under the name “Adhesion Contract - Consumer Protection Act No. 24,240”.
- Suppliers of certain services must provide a link through which the consumer may request the contract cancellation.

Disposition 271 will become effective 90 days after its publication in the Official Gazette, that is on December 7, 2020, and its breach will be subject to the application of the sanctions set forth in the Consumer Protection Act No. 24,240.

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