

## I. ADMINISTRATIVE ENFORCEMENT

### Which administrative mechanisms are available to enforce the Directives?

In Latvia, Directives 2011/83 (Consumer Rights), 93/13 (Unfair Contract Terms) and 1999/44 (Consumer Sales and Guarantees; now repealed by Directive 2019/771) are implemented in the Consumer Rights Protection Law (in Latvian “Patērētāju tiesību aizsardzības likums”). It is the main legal act in Latvia regulating protection of consumer rights. The supervision and control of compliance with the Consumer Rights Protection Law and related Regulations of the Cabinet as well as other legal acts (including those discussed above) is carried out by the Consumer Rights Protection Centre (in Latvian “Patērētāju tiesību aizsardzības centrs”) (hereinafter – Centre). According to Article 24 of the Consumer Rights Protection Law, the Centre is a direct administration institution supervised by the Ministry of Economics. The purpose of the Centre is to implement the protection of consumer rights and interests and perform market supervision. As such, the Centre proactively seeks out violations of consumer rights, investigates consumers’ complaints, adopts decisions, which are binding to the traders, as well as offers conciliation in case of disputes between consumers and traders. Given the number of investigations carried out by the Centre (see e.g. Yearly reports of the Consumer Rights Protection Centre) and the substantial role of the Centre in consumer rights enforcement, the tendency towards administrative enforcement in Latvia can be described as strong.

Enforcement of the Consumer Rights Protection Law is also carried out by other competent and duly authorised state institutions (as specified in the Consumer Rights Protection Law) together with municipalities and associations for protection of consumer rights. These other competent institutions are discussed below.

Directive 2008/122 (Timeshare) is implemented in the Consumer Rights Protection Law as well as in Regulations of the Cabinet No. 136 of 22 February 2011 “Regulations Regarding Contracts on the Right of Long-term Use of Holiday Accommodations, Long-term Contracts on Holiday Products, Contracts on the Resale of the Right of Long-term Use of Holiday Accommodations or Holiday Products and Contracts for Exchange of Long-term Right to Holiday Accommodations” (adopted pursuant to the Consumer Rights Protection Law), which are enforced by the Centre.

Directive 98/6 (Price Indication) is implemented in Regulations of the Cabinet No. 178 of 18 May 1999 “Procedures for Displaying Prices of Products and Services” (adopted pursuant to the Consumer Rights Protection Law). The compliance with the transposed provisions of Directive 98/6 (Price Indication) is supervised by the Centre and, in addition, in some occasions also by the municipal police (Article 38 of the Consumer Rights Protection Law discussed below).

Directive 2006/114 (Misleading and Comparative Advertising) is implemented in the Advertising Law. The supervisory authorities, each within their field of competence and, therefore, supervision, are the Competition Council (if a violation has caused or can potentially cause significant harm to competition), the National Electronic Mass Media Council (radio and TV advertising), the Health Inspectorate (in matters concerning medicines) and the Food and Veterinary Service (in matters concerning advertising of veterinary medicines, which are intended for providers of veterinary pharmaceutical and veterinary medical services) and courts.

Directive 2005/29 (Unfair Commercial Practices) is implemented in the Unfair Commercial Practice Prohibition Law. The supervisory authority is the Centre, but in matters concerning medicines – the Health Inspectorate.

Directive 2015/2302 (and previously Directive 90/314) (Package Travel) is implemented in the Tourism Law and in Regulations of the Cabinet No. 353 of 26 June 2018 “Regulations Regarding the Procedures for the Preparation and Provision of Package Travel and Linked Travel Arrangements and the Rights and Obligations of Service Providers of Package Travel and Linked Travel Arrangements and Travellers” (adopted pursuant to the Tourism Law). The supervisory authority is the Centre (according to Article 8.1 of the Tourism Law).

Please find below the yearly reports of the supervisory authorities: Yearly reports of the Consumer Rights Protection Centre

Yearly reports of the Health Inspectorate

Yearly reports of the Food and Veterinary Service Yearly reports of the Competition Council

Yearly reports of the National Electronic Mass Media Council

### Who can file administrative complaints? Can investigations be initiated ex officio?

Administrative complaints addressed to the Centre or other supervisory authorities can be filed by:

- 1) an association for consumer rights protection;
- 2) an institution responsible for controlling the relevant sector;
- 3) an EU institution listed in Article 4(3) of Directive 2009/22 (Injunctions Directive);
- 4) a competent institution of other EU Member State in accordance with Chapter III of Directive 2017/2394.
- 5) any other person.

The supervisory authority will investigate complaints on a priority basis. The supervisory authorities are also entitled to initiate administrative proceedings ex officio. Proceedings are always considered to be initiated ex officio when they are initiated on a basis of a complaint by any other person as listed above.

### Do any specific procedural requirements apply to filing administrative complaints?

No specific procedural requirements apply. The application must comply with general document drafting requirements and provide at least the following - the name and address of the person who files it, registration number for legal entities, a description of the nature of the complaint and other information so that the competent authority may understand the action sought and activity complained about. The application must be signed. There are no standard complaint forms approved.

### Do the administrative authorities have an obligation to investigate the complaint?

The Centre has an obligation to perform at least a preliminary assessment according to Article 26.13 (2) of the Consumer Rights Protection Law. If a violation and threat to the collective interests of consumers are found, the Centre may adopt measures to end the violation. If a preliminary assessment of the complaint indicates a possible violation that has caused or could cause significant harm to the collective interests of consumers, the authority may initiate an administrative case and perform a thorough investigation. However, this is done in priority order. The Centre usually publishes its list of priorities on its website: [www.ptac.gov.lv](http://www.ptac.gov.lv).

If the Centre does not find a violation and a threat to the collective interests, it may not initiate an administrative case, but is obliged to inform the complaining person of its decision. The Centre, therefore, is obliged to respond to any application and make at least a preliminary assessment (as noted before), however, it is not always obliged to initiate an administrative case.

However, only a consumer is entitled to submit a complaint about infringement of its individual rights. If in such a case the Centre or other supervisory authority is in doubt that the complaining person is a consumer, it is entitled to request evidence substantiating that the person is indeed a consumer. If no evidence is submitted, the authority may terminate the administrative proceedings (Article 26(3) of the Consumer Rights Protection Law).

Violations of Directive 2005/29 (Unfair Commercial Practices) & Violations of Directive 2006/114 (Misleading and Comparative Advertising)

Supervisory authorities investigate the complaints according to their priorities and competence. It is specifically stated in the Advertising Law, that the Competition Council must investigate a violation, if it has caused or can potentially cause significant harm to competition (Article 14.1 of the Advertising Law). The authorities do not investigate complaints, if a decision has been adopted in respect of that same activity, but concerning the other type of violation (i.e., either unfair commercial practice or a violation of advertising requirements).

#### **Are there any specific requirements regarding the provision of evidence to the competent authorities?**

Generally, no specific requirements apply for provision of evidence by the complaining party. The obligation to perform investigation and gather evidence on which the decision is based lies with the authority. Nevertheless, the more information (evidence) is provided to the authority proving the correctness of the claim, the easier and faster the authority will be able to adopt its decision. The authorities are subject to limited financial and administrative resources; therefore, not all investigations can be carried out to extent the applicant would desire.

The Centre is entitled to, inter alia, visit producers and traders at any time without prior warning, and to request and receive all necessary information, which in turn would count as evidence during the administrative proceedings (Article 26.13 (3) of the the Consumer Rights Protection Law).

Violations of the Consumer Rights Protection Law (Directives 2011/83 (Consumer Rights), 93/13 (Unfair Contract Terms) and 1999/44 (Consumer Sales and Guarantees), 98/6 (Price Indication), 2008/122 (Timeshare), 2015/2302 (Package Travel)):

Any person can submit a complaint about infringement of consumer's collective rights, but only a consumer is entitled to submit a complaint about infringement of its individual rights. As it is stated previously, if in such a case the Centre or other supervisory authority is in doubt that the complaining person is a consumer, it is entitled to request evidence substantiating that the person is indeed a consumer. If no evidence is submitted, the authority may terminate the administrative proceedings (Article 26(3) of the Consumer Rights Protection Law).

If the Centre has adopted a decision requiring a trader to perform specific actions in order to remedy a violation, the trader is obliged to inform the Centre within a given deadline about the performance of those actions (Article 26.15 (8) of the Consumer Rights Protection Law). If no information is provided, the Centre will impose a fine on the trader.

The Centre can also provide assistance in a dispute between a consumer and a trader. In order to receive such assistance, a consumer must provide documents and other evidence substantiating his claim, as well as evidence of making prior attempts in solving the dispute through negotiation with the trader (Article 26.2 of the the Consumer Rights Protection Law).

• Violations of Directive 2005/29 (Unfair Commercial Practices) & Violations of Directive 2006/114 (Misleading and Comparative Advertising)

The supervisory authority is entitled to request all necessary information from a trader and perform control purchases. If the trader does not provide the requested information or provides incomplete information, the authority is entitled to consider that the information utilized in commercial practice or advertising is imprecise or false.

As it is stated previously, if a complaint about a violation of the Advertising Law is addressed to the Competition Council, it must be accompanied by evidence that the violation has caused or can potentially cause significant harm to competition (Article 14.1 of the Advertising Law).

## **II. ENFORCEMENT THROUGH COURT ACTION**

### **Which court actions are available to enforce the Directives?**

The applicant, irrespective of proceedings initiated with the authority, may file a civil claim in court seeking damages or other remedies for consumer rights violations.

When examining civil disputes related to violations of the Advertising Law (which implements provisions of Directive 2006/114 (Misleading and Comparative Advertising)), the court also has some of the rights conferred to the supervisory authorities (Article 17 of the Advertising Law).

The legal obligations, fines and other sanctions imposed by an authority for administrative violations can be appealed in courts of general jurisdiction according to the procedure established in the Latvian Administrative Liability Law. The authority's decisions falling outside the scope of administrative violations must be appealed before the Administrative District Court according to the procedure laid down in the Administrative Procedure Law.

#### **Who can start a court action?**

Any person affected by the authority's decision or the trader's violation can bring an action in court. An applicant, however, must prove that it has been affected and therefore has a legitimate interest to initiate such a claim.

The Centre is entitled to bring a claim before the court when defending consumer rights and lawful interests (Article 25(6) of the Consumer Rights Protection Law).

Furthermore, associations for protection of consumer rights may also submit claims to court in order to protect consumer rights and interests (Article 23(3) of the Consumer Rights Protection Law).

#### **Can court actions be initiated by competitors?**

Competitors can initiate a civil case if they have suffered an injury because of the defendant's unlawful actions. As Article 4.1 (Compensation for Damage) of the Unfair Commercial Practice Prohibition Law provides, a person who has suffered damage as a result of unfair commercial practices is entitled to bring a claim to a court in accordance with the procedures laid down in law.

#### **Can the case be handled through an accelerated procedure?**

Articles 26.17 - 26.18 of the Consumer Rights Protection Law provide for possibility to apply an interim measures procedure, which may be considered as somewhat acceleratory. An authority may impose interim measures against the trader while it finishes the review of a case and adopts its final decision. Among the interim measures that can be applied by authorities is a prohibition to a trader to conduct certain commercial practices. The affected trader may appeal the interim measure in the Administrative District Court within 10 days from their coming into effect and the court must review such an appeal within 14 days. Submission of an appeal does not render the interim measure ineffective and the decision of the Administrative District court is final and cannot be appealed.

#### **Are there any specific requirements regarding the provision of evidence to the court?**

In civil proceedings the claimant must support its claims in court with appropriate evidence. The claimant may ask the court to request evidence from other parties if the claimant does not possess them.

In administrative proceedings the claimant must provide evidence, if such is available to the claimant. If not, the court may gather the necessary evidence itself.

#### **Are there specific procedural reliefs for consumers or consumer associations?**

There are no procedural reliefs intended specifically for consumers or consumer associations.

### **III. SANCTIONS**

#### **What are the possible civil sanctions and remedies for the infringement of the provisions of the Directives?**

Through civil proceedings the claimant may seek compensation for the harm suffered and request the court to order termination of the illegal activities. The compensation might include damages, contractual penalties, interest and compensation of non-pecuniary damage. It is likely that the judgement will eventually be published in the anonymized court rulings database operated by the Court Administration, but such a decision is attributable to the administrative management of courts and is not related to sanctions.

There are no specific civil remedies for breaches of the Directives.

#### **What are the possible criminal sanctions for the infringement of the Directives' provisions?**

The following sanctions are provided under the articles of the Criminal Law:

Art. 211. For a person who commits unfair competition, misleading advertising or unfair commercial practices, if substantial harm has been caused thereby to the State or to the interests protected by law of another person, the applicable punishment is temporary deprivation of liberty or community service, or a fine.

Art. 202. For a person who knowingly commits producing and selling such goods, or providing to consumers such services, as fail to comply with quality requirements set out in regulatory enactments or technical standards documents or agreements, as a result of which substantial harm is caused to the health of the consumer, his or her property or the environment, the applicable punishment is deprivation of liberty for a term up to two years or temporary deprivation of liberty, or community service, or a fine.

Art. 205(2). For a person who commits intentional violation of trading provisions issued by State institutions, if such has resulted in a substantial harm, the applicable punishment is deprivation of liberty for a term up to one year or temporary deprivation of liberty, or community service, or a fine.

The amount of fine may be imposed till 1000 minimum wages depending on a particular offence envisaged in above provisions (Article 41(2)(1) of the Criminal Law). The minimum wage in Latvia in 2022 is EUR 500.

According to Article 23 of the Law 'On the Procedures for the Coming into Force and Application of the Criminal Law' the term "substantial harm" is understood as either:

- 1) material losses in the amount of at least 5 minimum wages and threat to other interests protected by the law;
- 2) material losses in the amount of at least 10 minimum wages;
- 3) significant threat to other interests protected by the law.

The sanctions listed above are applied to natural persons, but coercive measures may be applied to the legal person in whose interests the natural person had acted.

Punishments for natural persons:

When deciding on the type of punishment, taken into consideration is the nature of and harm caused by the criminal offence, as well as the personality of the offender (Article 46(2) of the Criminal Law).

When determining the extent of punishment, both mitigating (Article 47 of the Criminal Law) and aggravating circumstances (Article 48 of the Criminal Law) are taken into consideration. Among other mitigating circumstances is the fact that the offender has compensated or rectified the harm caused to the victims.

The list of mitigating circumstances is not exhaustive – the court may find other circumstances to be mitigating as well. Among aggravating circumstances are repeated offences, greed, serious consequences (e.g., losses amounting to at least 50 minimum wages), etc. No direct link between the trader's turnover and the amount of fine is provided.

Coercive measures for legal persons:

According to Article 70.2 (1) of the Criminal Law, coercive measures are: liquidation; limitation of rights; confiscation of property; and fine. For the criminal offences listed above a fine may be imposed on a legal person from 5 up to 50.000 minimum wages.

According to Article 70.8 of the Criminal Law, when deciding on the type of coercive measure the nature of the criminal offence and the harm caused must be taken into consideration. When determining the extent of a coercive measure, the following circumstances are taken into consideration:

- 1) the actual conduct of a legal person;
- 2) the nature and consequences of the acts of a legal person;
- 3) measures which a legal person has performed in order to prevent the committing of a criminal offence;
- 4) the size, type of activities, and financial circumstances of a legal person;
- 5) measures which a legal person has performed in order to compensate for the losses caused or prevent the damage caused;
- 6) whether a legal person has reached a settlement with the victim.

The sanctions listed above (both for natural and legal persons) can be imposed by either a court or in some cases by a prosecutor (e.g., if the prosecutor decides on a simplified procedure that does not involve the court (not applicable to deprivation of liberty)). None of the fines described above are directly linked to trader's turnover, however, it might be taken into account as a "financial circumstance" when determining the extent of a coercive measure for a legal person. The Latvian law does not decide on the purpose to which the profits from fines are dedicated.

#### **What are the possible administrative sanctions for the infringement of the Directives' provisions?**

Administrative sanctions for infringements of Directives 2011/83 (Consumer Rights), 93/13 (Unfair Contract Terms), 1999/44 (Consumer Sales and Guarantees), 2008/122 (Timeshare), 98/6 (Price Indication) and 2015/2302 (Package Travel) are all provided in Chapter IX of the Consumer Rights Protection Law.

Article 37 of the Consumer Rights Protection Law establishes administrative violations in the sphere of protection of consumer rights in conjuncture with the amounts of fines (expressed in units of fine each of whom is 5 euro) to be imposed if an administrative violation is established.

Article 37. Administrative Liability in the Field of Consumer Rights Protection, Trade, and Provision of Services

(1) For determining incorrect payment for a purchase or service, or weight or measurement, a warning or a fine from three to forty-two units of fine shall be imposed on a natural persons, but a warning or a fine from six to one hundred and forty units of fine - on a legal person.

(2) For the failure to comply with the requirements laid down in laws and regulations that are applicable to the consumer crediting against movable property pledge, a warning or a fine from forty-two to eight hundred and sixty units of fine shall be imposed on a legal person.

(3) For the failure to comply with the determined requirements for working hours in the consumer crediting, a warning or a fine from forty-two to eight hundred and sixty units of fine shall be imposed on a legal person.

(4) For trade in prohibited places, a fine up to forty-two units of fine shall be imposed.

(5) For the failure to provide the written information specified in laws and regulation regarding the good, service, manufacturer, trader or service provider or for the placing on the market, offering or sale of goods without the labelling specified in laws and regulations or with a labelling providing such information or presented in such a form which does not conform to the requirements of laws and regulations, a fine up to seventy units of fine shall be imposed on a natural person, but a fine from six to one hundred and forty units of fine - on a legal person.

(6) For violating the regulations for trade or service provision, a fine up to seventy units of fine shall be imposed on a natural person, but a fine from three to two hundred and eighty units of fine - on a legal person.

(7) For the failure to indicate the price of a good or service in accordance with the procedures laid down in laws and regulations, a fine from three to forty-two units of fine shall be imposed on a natural persons, but a fine from six to one hundred and forty units of fine - on a legal person.

(8) For the performance of activities of a credit intermediary or representative of a credit intermediary which offers the customer such a credit the repayment of which is ensured with an immovable property mortgage or the purpose of which is to acquire or retain rights to an immovable property without registering with the Register of Credit Intermediaries and Representatives of Credit Intermediaries, a fine from fifty-six to one hundred and sixty units of fine shall be imposed on a natural person, member of the board or member of the general partnership, but a fine from one hundred and twenty to six hundred units of fine - on a legal person.

(9) For the provision of consumer crediting services without the special permit (licence) the need for which is determined by this Law or for continuing to provide the consumer crediting services after withdrawal or cancelling of the special permit (licence), a fine from fifty-six to four hundred units of fine shall be imposed on a natural person or member of the board with or without the prohibition for the member of the board to take specific positions in commercial companies, but a fine from five hundred to fifteen thousand units of fine - on a legal person.

At the same time, Article 38 of the Consumer Rights Protection Law establishes the competence for conducting administrative violations indicated in Article 37 quoted above.

Article 38. Competence in the Process of Administrative Violations

(1) The administrative offence proceedings for the offences referred to in Article 37, Paragraphs one, two, three, five, seven, eight and nine of this Law shall be conducted by the Consumer Rights Protection Centre.

(2) The administrative offence proceedings for the offences referred to in Article 37, Paragraphs five and six of this Law shall be conducted by the Health Inspectorate.

(3) The administrative offence proceedings for the offences referred to in Article 37, Paragraphs two, three and four of this Law shall be conducted by the State Police.

(4) The administrative offence proceedings for the offences referred to in Article 37, Paragraphs one, two, three, four and six of this Law shall be conducted by the municipal police.

(5) Until examination of the administrative offence case, the administrative offence proceedings for the offences referred to in Article 37, Paragraph six of this Law shall be conducted also by the municipal police, but the administrative offence case shall be examined by the local government administrative commission or sub-commission.

(6) Until examination of the administrative offence case, the administrative offence proceedings for the offences referred to in Article 37, Paragraph nine of this Law shall be conducted also by the State Police or municipal police, but the administrative offence case shall be examined by the Consumer Rights Protection Centre.

Sanctions for infringements of

Directives 2005/29 (Unfair Commercial Practices) and 2006/114

(Misleading and Comparative Advertising) are provided in the law that implements the particular Directive (namely the Unfair Commercial Practice Prohibition Law and the Advertising Law).

Regarding unfair commercial practices:

The supervisory authority is the Centre, but in matters concerning medicines – the Health Inspectorate. The supervisory authority is entitled to impose on a trader a fine in the amount of up to 10% of trader's last financial year's net revenue, but in any case not more than EUR 100.000. If the trader does not perform other obligations ordered to him by the authority (e.g. provision of corrected information to consumers, refraining from unfair commercial practice), the authority may impose a fine of up to EUR 10.000. It may also suspend the operation of trader's website or seal trader's premises and thus halt the trader's operation until it complies with the orders. The amount of a fine must be proportionate to the infringement, taking into consideration the trader's attempts to rectify the infringement and compensate the losses.

According to Article 15.2 (2) of the Unfair Commercial Practice Prohibition Law, the supervisory authority, upon passing a decision on imposition of a fine and amount thereof, shall take into account the following aspects, as well as evaluate whether the following conditions exist:

- 1) Nature and duration of the perpetrated infringement, effect caused (losses to the consumers), circumstances surrounding the infringement, role of the perpetrator in the infringement, and scope of the infringement;
- 2) By the date the decision is taken the trader has indemnified or commenced indemnification of the consumers for the losses incurred;
- 3) The infringement is discontinued at the initiative of the trader;
- 4) The trader has perpetrated infringement of the prohibition of unfair commercial practices repeatedly within a period of the last two years, and it is established by a decision of the supervisory authority or a written undertaking;
- 5) The trader has not complied with the written undertaking;
- 6) The trader has stalled review of the matter or concealed the perpetrated infringement.

The amount of the fine is not dependent on whether the trader is a natural or a legal person. The profits from fines are transferred to the general budget of the state, without further specification as to their purpose.

Regarding infringements of advertising requirements:

The supervisory authorities, each within their field of supervision, are the Centre, the Competition Council (if a violation has caused or can potentially cause significant harm to competition), the National Electronic Mass Media Council (radio and TV advertising), the Health Inspectorate (in matters concerning medicines) and the Food and Veterinary Service (in matters concerning advertising of veterinary medicines that are intended for providers of veterinary pharmaceutical and veterinary medical services).

The supervisory authority is entitled to impose on a trader a fine of up to EUR 14.000 for providing and distributing advertisements non-complying with the requirements for advertising. If the trader does not perform other obligations ordered to him by the authority (e.g. to withdraw advertising, exclusion of specific elements from advertisements, etc.), the authority may impose a fine of up to EUR 1400.

According to Article 20(3) of the Advertising Law, the supervisory authority, upon passing a decision on imposition of a fine and amount thereof, shall consider the following circumstances:

- 1) Nature and duration of the perpetrated infringement, circumstances surrounding the infringement, role of the perpetrator in the infringement, and scope of the infringement;
- 2) The addressee of the decision has indemnified or commenced indemnification of the damages incurred by the date the decision is taken;
- 3) The infringement has been discontinued at the initiative of the advertiser or the distributor of advertising;
- 4) The addressee of the decision has perpetrated the infringement in advertising sector repeatedly within a period of two years (and it is established by a decision of the supervisory authority or a written undertaking);
- 5) The addressee of the decision has not carried out the actions set out in the written undertaking;
- 6) The addressee of the decision has stalled review of the matter or conceals the perpetrated infringement.

The amount of the fine is not dependent on whether the trader is a natural or a legal person. No link between the trader's turnover and the amount of fine is provided. The profits from fines are transferred to the general budget of the state without further specification as to their purpose.

#### **What are the contractual consequences of an administrative order or a judgment on an individual transaction under the Directives?**

The supervisory authority may order a trader to rectify the committed violation, which might include obligation to amend existing contractual terms or to refrain from using them in the future. As a general rule, however, a decision by supervisory authority does not solve individual contractual disputes.

#### **Can authorities order the trader to compensate consumers who have suffered harm as a result of the infringement?**

According to Article 32 of the Consumer Rights Protection Law claims for damages and recovery of contractual penalties are to be solved in court according to the Civil Procedures Law.

#### **Can the administrative authorities or the courts require the publication of their decisions?**

The Centre routinely publishes all its decisions on its website and it is also entitled to publish written commitments of traders to rectify their violations. The Centre also publishes information regarding traders that have not complied with the Commission's for Settlement of Consumer Disputes (see Part IV below) decisions.

Regarding unfair commercial practices:

Where the supervisory authority has found a commercial practice to be unfair, it may order a trader to publish corrected information, which is needed to ensure compliance with the requirements of fair commercial practice. The authority is also entitled to publish (at the trader's expense) a written commitment by the trader to rectify the unfair commercial practice.

Regarding advertising violations:

The supervisory authority is entitled to publish (at the trader's expense) a written commitment by the trader to rectify his violations (Article 15(9) of the Advertising Law).

### **IV. OTHER TYPES OF ENFORCEMENT**

#### **Are there any self-regulatory enforcement systems in your jurisdiction that deal with aspects of the Directives?**

Some self-regulatory enforcement systems exist with respect to advertising practices. For example, the Pharmaceuticals advertising ethics committee has been set up within the trade association of the pharmaceuticals manufacturers. It can impose fines and publish its decisions regarding violation.

Similarly, the Latvian Advertising association has set up an ethics committee, which frequently reviews various forms of advertising. It can issue a warning to advertising professionals infringing its code of conduct or send recommendations to mass media not to publish the infringing advertisements. The committee also publishes its decisions on its website.

However, irrespective of the decisions of these committees, the competent authorities are still free to decide on these cases if the self-regulatory system has not ensured the termination of the violation.

The operators of mobile communications networks have adopted a code of conduct that limits the use of telemarketing and allows telemarketing calls to clients of other operators only if a prior agreement has been received. Non-compliance with the code would be considered unfair commercial practice (according to Article 9(1)(3) of the Unfair Commercial Practice Prohibition Law) and accordingly punished by the supervisory institution.

#### **Are there any out-of-court dispute settlement bodies available that deal with aspects of the Directives (e.g. mediation, conciliation or arbitration schemes ombudsmen)?**

The parties are free to reach settlement through any means they find appropriate, including mediation and arbitration. Nevertheless, there is a legal instrument intended specifically for consumer disputes: out-of-court consumer dispute settlement body (hereinafter – DSB). The requirements for DSBs are set out in the Law On Out-Of-Court Consumer Dispute Resolution Bodies (hereinafter – Law), which implements provisions of Directive 2013/11/EU (Alternative Dispute Resolution). DSBs are persons/institutions that examine disputes between consumers and traders and are included in a list of DSBs. DSBs exist in the fields of banking, financial services, insurance, public utilities, etc. A database of all Latvian DSBs is available on the Centre's website: <http://www.ptac.gov.lv/lv/content/arpustiesas-pateretaju-stridu-risinataju-datubaze>

A DSB may reconcile the parties or adopt a decision, which may serve either as a recommendation or as a binding decision. However, the decision may only be binding to the parties if they have been informed about it beforehand and have agreed to it (Article 12(5) of the Law). Nevertheless, even such “binding” decision cannot be enforced by a court bailiff like in regular civil cases – it would still have to be brought before a court for examination. As such, a trader is more likely to comply with DSB's decision, if a DSB is able to exert some kind of pressure on the trader – for example, if the trader is a member of an association that is managing the particular DSB.

According to Article 19.1 of the Consumer Rights Protection Law a trader is obliged to indicate in its website or contract the DSB that examines disputes in the respective field. A trader is obliged to participate in the out-of-court dispute settlement (Article 4 of the Law). A DSB must adopt a decision within 90 days after it has received all the necessary evidence (also electronically) (Article 12(1) of the Law). The Law does not prohibit a DSB from ordering compensation or imposing sanctions.

Unless specified otherwise in other legal acts regulating out-of-court dispute settlement, a DSB shall refuse to examine a dispute if, inter alia, it is already being examined or has been examined in the past by another DSB or the court (Article 5(3)(2) of the Law).

A special type of DSB maintained by the Centre should be mentioned – the Commission for Settlement of Consumer Disputes (hereinafter – Commission). Unlike other DSBs, the operation of the Commission is regulated in the Consumer Rights Protection Law. Its competence is limited – according to Article 26.3 (5) of this legal act, it will not examine disputes, if:

- 1) the consumer has not turned to the trader or service provider in order to solve the dispute by negotiation;
- 2) the dispute is insignificant or vexatious;
- 3) the dispute is examined or has been examined by another out-of-court solver of disputes or the court, as well as if solving of the dispute is within the competence of another out-of-court solver of disputes;
- 4) the dispute is regarding goods or service, the price of which does not exceed 20 euros, or regarding goods or service, the price of which exceeds 14 000 euros;
- 5) solving of the dispute would cause serious disturbances in efficient operation of the Commission;
- 6) the dispute concerns health care services;
- 7) the dispute concerns legal services;
- 8) the dispute concerns services related to use of residential premises;
- 9) the dispute concerns damages, payment documents or debt recovery;
- 10) insolvency of the trader or service provider has been declared;
- 11) the dispute concerns the insurance service of civil legal liability of vehicle owners of motor vehicles;
- 12) more than a year has passed since the day when the complaint or submission was submitted to the trader or service provider.

Furthermore, the Commission may be unable to gather experts from the relevant commercial field in order to examine a dispute, and therefore may refuse to examine a dispute. List of fields in which the Commission currently can review disputes are available here: <http://www.ptac.gov.lv/lv/content/pateretaju-stridu-risinasanas-komisijas-sastavs>

The Commission issues its decision in the form of a recommendation – it is not binding to the parties and does not prohibit the parties from seeking a dispute settlement in court (Article 26.12 (7) of the Consumer Rights Protection Law). The Commission is entitled to publish information (the so-called black list) about traders that do not comply with the Commission's decisions on the Centre's website (Article 26.12 (8) of the Consumer Rights Protection Law). The list of traders which do not comply with the Commission's decisions is available here:

<https://registri.ptac.gov.lv/lv/content/melnais-saraksts>.

The legal framework for DSBs came into force only in the second half of 2015 and is not yet commonly used by parties to a dispute. Commission's annual report for 2016 states that one of the reasons to this is the fact that consumers and traders are not fully informed about the Commission's work. However, the amount of reviewed disputes by the Commission is gradually increasing in recent years. The annual reports of the Commission for the years 2016-2018 is available here:

<https://registri.ptac.gov.lv/lv/content/publiskie-parskati-un-statistika>

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