

**Act No. 57/2005 on Supervision of Unfair Commercial Practices and Transparency of the Market**

TRANSLATED FROM THE ICELANDIC

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**Section 1. General Provisions**

**Art. 1**

The present Act applies to any kind of business activity, such as production, commerce and services, irrespective of whether this is operated by individuals, Companies, official parties or others.

The present Act does not apply to wages or other employment terms of wage-earners according to wages and terms agreements.

**Art. 2**

The present Act applies to agreements, terms and activities having or intended to have an effect in this Country.

The present Act does not apply to agreements, terms and activities merely intended to have an effect outside of Iceland.

**Art. 3**

The meaning of the words in the present Act is as follows:-

1. *Business operations* is any kind of business activity, irrespective of the form of ownership and without having regard for the goods, services or rights dealt with or handled against remuneration.

2. *Undertaking* is an individual, Company, official parties and others engaged in business operations.

3. *Consumer* is an individual purchasing goods or services against remuneration, provided the transaction is not concluded for professional purposes.

4. *Goods* according to the present Act constitute real estate and chattel, including ships, aircraft, gaseous substances, electricity and other sources of energy.

5 *Price* is the value of goods and services with Value Added Tax and other official dues where applicable, i.e. any kind of refund irrespective of the use of another name, such as remuneration, wages, retainer, freight, carriage, tariff, rent or the like.

6. *Service* is any kind of assistance, work or service against payment, except paid work in the service of others.

#### **Art. 4**

The Consumer Agency undertakes supervision in accordance with the present Act under authority from the Minister of Commerce who undertakes the implementation of the Act.

The task of the Consumer Agency under the present Act is that of:-

- a. carrying out the instructions and prohibitions of the Act,
- b. determining actions against unlawful commercial practices,
- c. supporting increased transparency of the market.

Upon the despatch of matters in accordance with the present Act the Consumer Agency is authorized to place matters in priority order.

The decisions of the Consumer Agency arrived at on the basis of the present Act will be referred to the Appeals Committee of Consumer Affairs who operate on the basis of Art. 4 of the Act on the Consumer Agency and Consumer Spokesman.

### **Section II. Supervision of Unfair Commercial Practices**

#### **Art. 5**

It is not permissible to do anything which is in conflict with good commercial practices in business operations as these are practised or something which is contrary to consumers' interests.

#### **Art. 6**

It is not permissible to grant incorrect, unsatisfactory or misleading information in advertisements or in another manner or to apply other such commercial practices of a similar nature, provided that this information and commercial practices be likely to influence demand or supply of goods, real estate, services or other objects being offered for professional activities covered by the present Act.

Advertisements and other business methods shall not be unreasonable vis-à-vis competitors or consumers due to the form thereof or owing to reference to unconcerned issues.

### **Art. 7**

Comparative advertisements are all those wherein there is direct or indirect reference to a competitor or goods or services offered by a competitor.

Comparative advertisements shall as far as comparison is concerned be permitted subject to the following conditions that:-

- a. these be not misleading,
- b. the comparison extend to goods or services satisfying the selfsame needs or being intended for the selfsame use,
- c. there be a comparison of one or more tangible, pertinent, evidenced and exemplary properties of goods or services, including price as the case may be,
- d. the market will not be mistaken about the advertising party or his competitor or of Trade Marks or the name of goods of an advertiser and a competitor, other markings, types of goods or services,
- e. there be no disparagement of a competitor's Trade Mark, name of goods, other markings, goods, services, activities or circumstances or that they be shown disrespect.
- f. if there is a case of goods having symbols of origin there shall in all instances be a comparison of goods having the selfsame symbols.
- g. there be not in an unreasonable manner utilization of the reputation of a Trade Mark, the name of goods or other markings of a competitor or the symbols of origin of competitive goods,
- h. goods or services be not introduced as reproductions or imitations of goods or services having a protected Trade Mark or name.

In case there be a mention of special offer in a comparison it shall be clearly and unequivocally specified on which date the special offer will end or, where applicable, that the special offer be subject to supply of the goods or services and, in case the special offer has not entered into force, on which date it will be commenced to quote a special price or other special terms.

### **Art. 8**

Advertisements intended to appeal to Icelandic consumers shall be in the Icelandic language.

Advertisements shall be prepared in such a manner that there be no doubt a case of advertisements. These shall be clearly separated from other subjects of the media.

Advertisements shall be presented on the assumption that these will be seen and heard by children and shall in no way be offensive to them.

In advertisements special care shall be taken on account of the gullibility of children and youths and the effects on them.

In case children appear in advertisements care shall be taken not to show or describe dangerous acts or incidents which may result in their or other children being endangered or doing that which is not permissible.

### **Art. 9**

In case goods, services or other deliveries and to which the present Act extends be of such a nature that guidance be required upon assessment of the properties thereof, e.g. utility and durability as well as handling and hazard which may be caused by goods or other factors there shall be granted satisfactory directions in writing when an offer is made, a contract is concluded or, as the case may be, upon delivery. The directions shall be in Icelandic, English or a Scandinavian language, other than Finnish, and shall be based on the type or make of the goods, service or other items delivered.

General terms of service parties offering customers services in this Country shall be in Icelandic.

### **Art. 10**

A declaration of guarantee may be given only provided that the warranty declaration grant the recipient more extensive rights than he has in accordance with the Laws in force.

A declaration of guarantee is legally binding for the guaranteeing party on the basis of the conditions presented in its terms of warranty and advertisements.

### **Art. 11**

In case a declaration of guarantee is granted the seller of the goods or services shall explain to the consumer in a clear and informative manner the applicability of the warranty and which conditions are stipulated to enable the consumer to plead the guarantee. The seller shall also advise the customer in a clear manner about the binding rights which he enjoys in accordance with the provisions of Laws and which the declaration of guarantee does not affect. If the consumer so desires the seller shall hand

him the terms of the declaration of guarantee written on paper or another permanent media accessible for the consumer. Declarations of guarantee in writing shall be in Icelandic.

### **Art. 12**

It is not permissible to use in business operations the name of a firm, trading mark or the like used by a party not entitled to do so or to operate a business under a name giving misleading information about the ownership rights or liability of a business operator. It is also forbidden to use markings to which a party is entitled in such a manner as to render these confusing with other markings which another concern uses with full rights.

### **Art. 13**

It is not permissible in business operations covered by the present Act to acquire or endeavour to acquire in an improper manner information on or control of business secrets of the operation.

A party having obtained knowledge or control of business secrets in a just manner in the course of his work for another or in association with another, cf. para. 1, may not without permission grant information thereon or utilize such secrets. This prohibition remains valid for three years as of the completion of work or the termination of agreement.

A party having on account of his work or position in other respects been trusted to retain drawings, descriptions, prescriptions, models or the like is forbidden the utilization thereof or to grant others use thereof without special authority.

In case information or control of a business secret has been acquired in a manner violating the provisions of para. 1 – 3 the violating party or those having obtained information from him are not permitted the utilization thereof.

### **Art. 14**

Clearance sale or other sale where selling occurs at reduced price may be advertised or given notice of only when there is a case of actual price reduction.

Care shall be taken that it shall be clear by means of marked prices as to what the original price of the goods was.

### **Art. 15**

It is not permissible to sell or offer for sale goods marked thereon or on a label or packing material with the pertaining names, international mark of nursing and humanitarian operations or other similar markings and to use such markings,

identifications or names without authority on advertising sheets, advertisements, invoices, lists of goods or other commercial documents.

Upon offer of goods, services or other items furnished and to which the present Act extends it is not permissible to use the Icelandic Coat of Arms and it is also not permissible to use unlicensed Icelandic regional crests as well as foreign State or regional crests.

#### **Art. 16**

The Consumer Agency may lay down further rules to prevent information from being misleading or improper vis-à-vis consumers as well as general rules relating to the application of Art. 5 – 9. The Consumer Agency shall as far as possible consult the parties concerned or their associations prior to such rules being laid down.

The Consumer Agency may resort to actions against activities in conflict with the provisions of the present Section. The Consumer Agency's acts may consist of prohibition, instructions or authority subject to specific condition.

### **Section III. Supervision of the Market's Transparency**

#### **Art. 17**

A firm selling goods or services to consumers shall indicate the price of their goods and services or display this in such a prominent manner at the place of sale that it be easy for customers to see it. The Consumer Agency may lay down further provisions relating to indication of prices by means of official notification.

#### **Art. 18**

The Consumer Agency may give firms special instructions to make arrangements to facilitate customers' assessment of price and quality. The instructions may consist of an obligation to specify prices, terms of trade, quality and other properties and how goods shall be measured, weighted and classified. The Consumer Agency may give such instructions by means of an official notification.

#### **Art. 19**

For the purpose of enlightening consumers and strengthening their price sensitivity the Consumer Agency will acquire information relating to price, price formation and other terms of trade and will publish conclusions as far as there is deemed to be reason therefore. The Consumer Agency shall lay down rules of work concerning the acquisition of such information, the handling and publication thereof.

### **Section IV. Obligation Concerning Information**

## **Art. 20**

The Consumer Agency may require all those to whom the present Act extends to furnish all information deemed necessary for the study of individual issues. Information may be required orally or in writing and shall be granted within a suitable respite stipulated by the Agency.

The Consumer Agency may be subject to the same conditions as contained in para. 1 require the delivery of data for study. This shall be delivered within a suitable respite stipulated by the Agency.

In the course of its work the Consumer Agency may require information and data from other authorities, i.a. from Tax and Customs authorities, independent of their duty to observe confidentiality.

The Consumer Agency may also obligate the parties mentioned in para. 1 to inform the Agency regularly of items of importance for the implementation of the present Act. The Consumer Agency may give such instructions by means of official notification.

## **Art. 21**

Those working for the authorities on the implementation of the present Act are forbidden to tell of the items they discover in the course of their work and which shall be kept secret. The duty to observe confidentiality remains although the position be left.

## **Section V. Penalties**

### **Art. 22**

The Consumer Agency may apply authoritative fines to firms which violate:-

- a. the provisions of the present Act relating to the subject of information granted in advertisements or in connection with other business methods, cf. Art. 6 and 7,
- b. authoritative rulings and decisions by the Consumer Agency intended to prevent unlawful business practices, cf. Art. 16,
- c. the provisions of the present Act concerning the marking of prices or authoritative rulings laid down on the basis thereof, cf. Art. 17.
- d. rulings and instructions of the Consumer Agency concerning measures to facilitate customers' assessment of price and quality, cf. Art. 18.

Fines in accordance with para. 1 may amount to up to ISK 10 million.

### **Art. 23**

If a decision which has been made in accordance with the present Act is not abided by the Consumer Agency may determine that the party or those against whom the decision is aimed pay daily fines until it is abided by. Notice of a decision on a daily fine shall be given by letter in a verifiable manner to the party against whom it is aimed.

#### **Art. 24**

A decision on daily fines may be referred to the Agency's Committee of Consumer Affairs within fourteen days as of the time it was introduced to the party at whom it is aimed. Daily fines are not calculated until a respite has passed. If a decision is referred to the Appeals Committee of Consumer Affairs daily fines will not be imposed until the Committee's conclusion is available.

#### **Art. 25**

A decision by the Consumer Agency will not be submitted to Courts of Law until a decree by the Appeals Committee of Consumer Affairs is available.

#### **Art. 26**

Violations of the present Act, rules and instructions laid down in accordance therewith are subject to fines or imprisonment for up to six months in case of a serious offence. Deprivation of rights in accordance with Art. 68 of the Penal Code may be ordered and a monetary fine and also imprisonment if conditions of Art. 49 of the Penal Code are at hand.

A party granting those undertaking the implementation of the present Act incorrect reports shall be subject to penalty under Section XV of the Penal Code.

Fines in accordance with the present Act may be imposed equally upon a legal person and an individual. A legal person may be subjected to a fine irrespective of as to whether guilt will be proved against an employee of the legal person. In case an employee of the legal person has committed a violation of the present Act or rules laid down in accordance therewith a fine and deprivation of rights to work may also be imposed upon a legal person, provided that the violation be committed for the benefit of the legal person or if he has enjoyed profit from the violation. A legal person is responsible for the payment of a fine which his employee is ordered to pay on account of violation of the present Act, provided that the violation be linked to his work with the legal person.

Deprivation of rights under Art. 68 of the Penal Code and confiscation of property under Art. 69 thereof may be ordered in a Case arising on account of a violation of the present Act or rules laid down in accordance therewith.

#### **Art. 27**



The decisions of the Consumer Agency on the imposition of authoritative fines or daily fines are enforceable and so are costs of a Case.

Reference to the Appeals Committee of Consumer Affairs defer legal execution.

Upon legal execution in accordance with decisions of the Consumer Agency the respondent shall be called before a District Court and proceedings are in accordance with Section 13 of the Legal Execution Act.

**Art. 28**

The present Act enters into force on 1 July 2005.