

Legal Alert: E-Commerce Regulation



September 24, 2021 / By [Matías Zegers](#), [Jorge Timmermann](#), [Paulina Farías](#) y [José Tomás Musalem](#).

On 23 September 2021, the **Electronic Commerce Regulation** (the "Regulation") was published in the Official Gazette. The purpose of the Regulation is to strengthen the transparency and quality of the information provided to Consumers on Electronic Commerce Platforms regarding the characteristics, essential features, price of the products and services offered and all other relevant information to encourage informed decision-making when purchasing products or contracting services.

The Regulation **defines E-Commerce Platform** as any internet site or platform accessible through electronic means, which allows Sellers to offer products or services, and Consumers to purchase or contract them, as appropriate ("Platform" or "Platforms"). Thus, a Seller may offer products or services on a Platform of its own or of a third party, who would be considered as an Operator, both being subject to the provisions of the Regulation.

Likewise, **Sellers are considered** to be those public or private suppliers that frequently offer goods or services to Consumers, for which a price or fee is charged through Platforms, and Operators are those suppliers that make a Platform available to Sellers, whether their own or a third party's, so that they can offer their products or services to Consumers.

Among the issues addressed by the Regulation, it is established that for the **Consumer's consent** to be understood as formed, the Consumer must have previously had clear, understandable and unequivocal access to the general terms and conditions of the contract and the possibility to store or print them. In addition, it clarifies that silence and the mere visit to a platform do not constitute acceptance and therefore do not impose any obligation on the Consumer.

On the other hand, the Regulation also **deals with the provision of online information**, determining the form in which this information should be provided, as well as the language and timing in which it should be presented to Consumers, so that they have the necessary background information to make an informed consumer decision.

In that order, it is established that not only information relating to the **product or service** offered on the Platform (such as characteristics, origin, guarantees, etc.) should be provided, but also certain **information that allows the identification of the Seller and/or the Operator** as well as the means by which it is possible to contact them, as appropriate. If applicable, the Operator shall inform about its relationship with the Seller and the obligations it will assume towards Consumers.

Regarding **product information**, the Regulation emphasizes the Seller's duty to publish or provide the Operator with the terms and conditions of the contract, i.e. payment conditions and associated means of payment; exchange and return policies; information on total cost, including the breakdown in case it includes transport, dispatch or delivery, as well as conditions for the latter; information on stock and availability; right of withdrawal under the terms of Article 3 bis of Law No. 19,496 on Consumer Rights Protection; information on the contact support; etc.

Likewise, the Regulation provides that, prior to payment for the product or service, the **Consumer must be provided with a** summary of the transaction containing, among others, the individualization, price and characteristics of the product or service in question. Furthermore, the Seller or Operator, as appropriate, is required to send a copy of this summary to the Consumer once the contract has been concluded.

In case of violation of the provisions of the Regulation, the rules of Title IV of Law No. 19,496 on Consumer Rights Protection will be applied, as well as the sanctions contemplated in Article 24 of the aforementioned law, which could reach the amount of up to US\$ 140,000 approximately. The National Consumer Service will be the agency in charge of ensuring compliance with the Regulation.

Finally, the Regulation provides that **it will enter into force** six months after its publication in the Official Gazette, that is, as from March 23, 2022.

Contacts

For more information, please contact: