

Second Ad Hoc Expert Meeting on Consumer Protection

Geneva, 11-12 July 2013

**Contribution on the Revision of the
United Nations Guidelines on Consumer Protection**

by

Brazil



**MINISTÉRIO DA JUSTIÇA
SECRETARIA NACIONAL DO CONSUMIDOR
GABINETE DA SECRETÁRIA**

**Review of the United Nations Guidelines for Consumer
Protection (2012)**

Brazilian Manifestation

The Review of the United Nations Guidelines for Consumer Protection (hereinafter referred to as UNGCP), was commissioned at the First meeting Ad Hoc in Geneva on July 10th and 11th, 2012.

The current Guidelines were drafted by the United Nations Economic and Social Council (ECOSOC) and adopted by the General Assembly in 1985 (resolution A/C.2/54/L.24 9TH). These Guidelines remain a valid and relevant document for consumer protection policy formulation.

It is important to notice that a meaningful number of national legislations were inspired by these Guidelines. In order to assure that these Guidelines remain being a remarkable goal, it has been identified areas which must be reviewed.

Considering there weren't any reviewing process since 1999, the contemporary legislations, policies and demands brought new challenges to the consumer protection and impose new review proposed by the United Nations. Its application field must also correspond to the new competencies conferred to consumer protection agencies. The new Guidelines must also be supported by an updated compilation concerning good practices and common flows in consumer protection



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SECRETARIA NACIONAL DO CONSUMIDOR
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field. The current review process will overcome these challenges and align itself to the new reality of consume society.

Under the UNCTAD coordination, it has been requested to the States Members and other international organizations to contribute in this important project by means of research, information and official manifestation.

In this sense, the Brazilian Government, here represented by the National Secretariat for Consumer (hereinafter referred to as SENACON), responsible agency to attend in organisms, forums, commissions and international committee which are of concern of consumer protection and defense or matter of consumers' interest, presents its considerations regarding the review of the United Nations Guidelines for Consumer Protection.

SENACON praises the recognition and participation of initiatives contained in others States Members legislative processes, as well as the guidelines of the Organization for Economic Co-operation and Development (OECD), International Consumer Protection and Enforcement Network (ICPEN), Consumers International and the Organization of American States (OAS), among others.

In the sense to contribute to the elaboration of a proposal of Review of the UNGCP during the 13th Intergovernmental Group of Specialists (IGS) Meeting, to take place in Geneva, on July 11th and 12th 2013, SENACON considers that in the past ten years, the global citizen has experienced numerous social, economic and technological innovation changes in order that the consumer protection and defense issue has expanded, becoming this one a substantive matter even more complex in the sense that it is directly linked to every person life.



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Indeed that the current complexity of consume relations and the development of new products and services which follows the technological, social and economic changes of each country makes the matters and subjects like consumer repayment, electronic commerce, financial issues and international cooperation be contemplated and recognized in the sense of the United Nations Guidelines for Consumer Protection.

The measures which allow the repayment to consumers, considering its vulnerability and inevitable differences among legislations regarding consumer protections and defense of each country, must consider and highlight not only to social and economic differences of each country, but mainly to the *double standard* from multinationals companies in products and services trade.

In this sense, for instance, as part of this concern, Mercosur consumer protection agencies are developing a study regarding damage repair to consumers in the sphere of States Members of Southern Common Market (MERCOSUL) to identify eventual differences not only related to consumers repayment values, but also related to treatment and deadlines.

We understand that one of the changes and news in this process of development and complexity of consume relations is exactly the celerity conferred to this process by the improvement of financial services (credit card and credit concession) and electronic commerce. Thence the necessity of think in procedures and measures that confers equal celerity to consumers repayment.

In the matter regarding exactly to the Electronic Commerce, though the United Nations Guidelines for Consumer Protection as well as the majority of national legislations predict basic consumer protection and defense principles recognizing its



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vulnerability, we understand that, nevertheless, this new consume environment brings many insecurities to global consumers.

In this effort, the Brazilian Government has been working in the improvement of its internal legislation in order to guarantee more security and protection to consumers regarding the consume relations in the sense of Electronic Commerce. From the observation that *on-line* transactions are more representative every year in the total of consumption relations and normative adjustments are necessary to guarantee full efficiency of consumer protection instruments in the electronic environment. In 2013, it was published a presidential Decree, including specific matters like information and consumer service and specifying procedures to the regretting rights exercise.

Concerning to the consume scope in the Information Society, the Brazilian Government is putting efforts in a general normative proposal regarding personal data protection, captained by SENACON, and it counts with the support of many other Ministries and federal agencies. To the Brazilian government, personal data protection is a topic which must be treated apart from electronic commerce, once it makes direct reference to a normative structure consolidated around personal data protection principles recognized internationally and which implementation brings a problematic that does not confounds itself with the electronic commerce. It is notable that, despite the consumer personal data protection establishes a series of guarantees that go beyond consumer protection, it is a fact that the consumer personal data protection has extreme relevance to paradigms modernization of consumer defense in the Information Society and that, in Brazil, this normative proposal, despite its generic sphere, is a consumer defense initiative and save many convergence points.



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Regarding to the Financial Services theme, we know that besides the development of new products and services in the sector, we should consider the credit offer and the financial inclusion of new consumers in international level. Therefore, it is necessary handle it in order to be considered the consumers' vulnerability regarding these products and services and its specificities, the lack of technical acknowledge by the consumers, the information absence and the sector's massive publicity. Although technical agencies and organisms from financial sector and consumer protection is working concomitant financial literacy, we know that this is part of a set of measures to avoid conflict in consume relations and will be observed its outcomes in medium term.

Nevertheless, to avoid consumers' indebtedness it must be established and clarified the responsibility in credit offer and concession and the obligation of advisement to consumers by financial institutions. It must incentive good commercial practices and advertising *fair play*.

Lastly, considering that in consume society the consumer must be considered a global citizen, regarding International Cooperation it is necessary to progress in the elaboration of new modalities to international cooperation. The technical exchange among consumer protection and defense agencies contribute to mitigate the so called *double standard* by multinational companies. Cooperation also allows the improvement of technical agencies performance guaranteeing security to the consume relations and the global consumer protection.

Brazil believes and endorses international cooperation for consumer protection, we are founding member of the Americas Safe Consume and Health Network which allows information exchange, technical capacity and regional integration in fields like health and security for consumers. We presented in the last



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Hague Conference on Private International Law a proposal of international protection to the tourists and visitors as well as special attention to such consumers, aiming to establish administrative cooperation to solve eventual consume conflicts in the international tourism area.

The improvement of the United Nations Guidelines for Consumer Protection by its review is especially pertinent for accompany economic, social and technological changes witnessed by the global citizen. All nations should engage themselves to consume relations be even more just, balanced and safe.

In this sense, the National Secretariat for Consumer of the Brazilian Ministry of Justice refers the present manifestation, hoping to contribute effectively in the discussion of the Guidelines' revision.

Respectfully,

A large, stylized handwritten signature in black ink, consisting of several overlapping loops and flourishes.

JULIANA PEREIRA DA SILVA
National Secretary for Consumer