

CLIENT ALERT

CONSUMER LAW | TURKEY

MAY 2022

With Amendment Law No 7392 published in the Official Gazette dated 1 April 2022 and numbered 32796, significant amendments were introduced to Consumer Protection Law No 6502 (the "**Law**").

The amendments to the Law will apply to consumer transactions executed from 1 October 2022. As regards any indefinite-term consumer contracts that are entered into before 1 October 2022 and remain in force, any provisions of such contracts that conflict with the amendments introduced to the Law will not be applicable from 1 October 2022.

REGULATIONS REGARDING LOAN AGREEMENTS

With the amendments introduced to the Law, it will no longer be possible to make loan agreements in consumer and housing loans conditional on purchasing ancillary financial products and services that are not related to the loan.

Further, in order to submit loan offers to consumers with a requirement of having loan-linked insurance, the lender must also offer a loan agreement that does not require loan-linked insurance. The consumer will be able to evaluate these two offers and choose the insured or uninsured loan offer. It will not be possible to extend a loan-linked insurance without having the explicit request of the consumer through a written or permanent data retainer.

Another amendment that protects consumers is related to the right of withdrawal. In consumer loan agreements, the payment of the loan debt in full within the withdrawal period will be considered as exercising of the right of withdrawal and it will not be necessary to notify for the use of the withdrawal right.

REGULATIONS REGARDING INTERMEDIARY SERVICE PROVIDERS

In the Law on the Regulation of Electronic Commerce No 6563, intermediary service providers are defined as individuals or business entities providing an electronic commerce platform to third parties for their economic and commercial activities. It is also set out that intermediary service providers will not be liable for verifying the contents of the products and services provided by the third parties on such electronic platforms, in terms of conducting research into whether there are any illegal activities or situation in relation to the content, or the goods or services related thereto.

With the amendment to the Law, the responsibilities of the intermediary service providers have been specifically set out. It is designated that in distance contracts, the intermediary service providers are jointly and severally liable together with the seller or provider for giving preliminary information to the consumer, for the confirmation and proof of the preliminary information and, in cases where they enter the data themselves, for the absence of the mandatory elements of preliminary information. Additionally, the intermediary service providers are liable for the compatibility and proof of the matters within the preliminary information and the information in their advertisements.

In cases where the intermediary service providers receive the payments on behalf of a seller or provider, they will be jointly liable with the seller or the supplier for the obligations concerning the delivery or performance and the right of withdrawal, whereas the intermediary service providers will not be liable against the claims for a price reduction or replacement with a non-defective product, which may arise due to defects in the provided goods or services.

The intermediary service providers are also required to establish a system for consumers to exercise their rights and obligations arising from distance sale contracts, and to keep the system open without any interruption. An administrative fine of TRY 1 million (one million Turkish Liras) will be imposed on intermediary service providers who fail to comply with this obligation.

LEGAL REGULATION REGARDING REFURBISHED PRODUCTS

The Regulation on the Sale of Refurbished Products (the "**Regulation**"), which enters into force on 22 August 2022, sets out the procedures and principles regarding the refurbishment and resale of certain products in the centres determined by the Ministry of Commerce.

With the amendments to the Law, refurbished products are defined within the scope of the Law as "used goods that are offered for resale by improving their hardware, software or physical properties," and the legal basis of the Regulation has been established. Refurbished products can only be renewed in centres having a renewal certificate from the Ministry of Commerce, and a minimum of one year guarantee must be granted on refurbished products commencing from the date of delivery to the consumer.

It has been announced that the implementation procedures and principles regarding the types of goods to be renewed by the renewal centres will also be set out under a separate regulation.

An administrative fine of TRY 500,000 (five hundred thousand Turkish Liras) can be imposed in the event of carrying out renewing activities without having a renewal certificate, and TRY 500 (five hundred Turkish Liras) can be imposed for every transaction regarding non-conformity and deficiencies detected in the sale of refurbished products.

REGULATIONS REGARDING AFTER SALES SERVICE STATIONS

With the amendment to the Law, manufacturers and importers are required to register their after-sales service stations with the system to be established by the Ministry of Commerce, and to use the term "independent service" in a legible manner in all media and in all their activities.

After the expiry of the guarantee period, if an after-sales service cannot be provided during the lifetime of an item, determined by the Ministry of Commerce, the consumer will be able to request compensation for the damage from the manufacturer or importer.

An administrative fine from TRY 5,000 (five thousand Turkish Liras) to TRY 315,000 (three hundred and fifteen thousand Turkish Liras) is imposed on manufacturers and importers who do not obtain a competence certificate for after-sales services, who do not register with the system that will be established by the Ministry of Commerce, and who do not use the term "independent service".

NEW AUTHORITY OF THE ADVERTISEMENT BOARD TO TAKE ACCESS BLOCKING DECISION

The Advertisement Board under the Ministry of Commerce had the power to render suspensions, corrections, administrative fines and precautionary suspension decisions of up to three months concerning advertisers, advertising agencies and organisations acting in breach of the regulations in relation to advertisements.

With the amendment to the Law, in addition to these powers, in the case of a violation executed on the internet, the Advertisement Board has also been granted the power to block access (in the form of URL, etc.) regarding the broadcast, part, section in which the violation occurred. The Advertisement Board now has the authority to take blocking of access decisions, together with the Information Technologies Authority and the courts. In cases where it is not technically possible to block access to the content related to a violation or where the violation cannot be prevented by blocking access to the relevant content, it is possible to make a decision on blocking of access to an entire website.

NEW APPLICATION THRESHOLD FOR THE CONSUMER ARBITRATION COMMITTEE

The application threshold for the Consumer Arbitration Committee has been increased from TRY 15,430 (fifteen thousand, four hundred and thirty Turkish Liras) to TRY 30,000 (thirty thousand Turkish Liras). If there is no consumer arbitration committee for the consumer's residence, or for the place where the consumer transaction is made, these consumers will be able to apply to the district governorships of that place without being subject to any loss of rights.

The new limits determined by the new amendment provisions will apply in applications made to the consumer arbitration committee and in the lawsuits filed in consumer courts from 1 October 2022.



In compliance with Turkish bar regulations, opinions relating to Turkish law matters that are included in this client alert have been issued by Özdirekcan Dündar Şenocak Ak Avukatlık Ortaklığı, a Turkish law firm acting as correspondent firm of Gide Loyrette Nouel in Turkey.

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