OMNIBUS AND INFORMATION OBLIGATIONS IN E-COMMERCE - SUBSEQUENT ACTIONS AND CHARGES BY PRESIDENT OF UOKiK

* **An entrepreneur or a natural person not conducting business activity? Who sells on the platform and what are the ensuing rights for consumers? What is the segregation of duties between the platform and the seller?**
* **President of UOKiK checks if consumers are properly notified on issues arising from the Omnibus Directive. Following his intervention, a number of entrepreneurs have aligned or started to change their practices.**
* **Zalando, Booking, Travelist have already had charges pressed - they are at risk of a fine of up to 10 percent of their turnover.**

**[Warsaw, 04 September 2023]** Since 1 January 2023, by way of the implementation of the EU Omnibus Directive the consumer protection in the digital world has been increased. The regulations impose new information obligations on entrepreneurs operating online such as providing a phone number, informing whether published opinions are verified and in what manner, and in case of shopping platforms - indicating whether a given offer originates with an entrepreneur or a natural person other than an entrepreneur. It is additionally required that providers of online shopping platforms explicitly and understandably disclose how the duties related to the performance of an agreement concluded at the platform are segregated among them and the providers of products and services offered. From a consumer’s point of view, some unambiguous information on, for example, who is responsible for a product delivery or payment processing (a seller or a trading platform operator) is important if it is necessary to file a complaint.

UOKIK has been extensively monitoring online platforms checking the correctness of practices related to the extended information obligations. In 19 cases violations have been found and entrepreneurs have been called to provide explanations and change the challenged practices. In most cases, there was no information, in the way required by relevant laws, that the entity being a seller at the platform was an entrepreneur (e.g. such information was inserted only in the platform regulations) while the information of the segregation of duties among the platform and the sellers was dispersed in a few documents. Following the intervention of President of UOKIK, a majority of entrepreneurs have changed their actions or declared that they would introduce some modifications. Among them you will find the providers of platforms such as: jak Glovo, Uber Eats, Pyszne.pl, Wolt, Bolt Food, Aliexpress, Wakacje.pl, FREE NOW, Uber, Bolt, Facebook, Morele.net, Empik, Triverna.pl, Amazon, or Allegro.

*- A properly implemented information obligation involves more extensive protection of consumers using e-commerce. When buying products, ordering food or deciding to use a service via an online platform, consumers should have an easy access to the key information if the entities with whom they conclude the agreement are entrepreneurs of natural persons not running business activity. This is what their rights depend on. If they don’t conclude the agreement with the entrepreneur, they are not covered by the protection under the consumer law and they are not affected by the ensuing privileges. For example, they will not be entitled to the statutory capacity to cancel the remote agreement* - says Tomasz Chróstny, President of UOKiK.

Despite the call issued by President of UOKIK to change the practices, three entrepreneurs, namely: Zalando, Booking, and Travelist have failed to introduce the changes in communicating information to consumers and have not expressed the intention to implement them. Clients of those platforms might have not been expressly informed whether the offer presented originated from an entrepreneur or from a natural person other than an entrepreneur and what the segregation of duties among the platform and sellers of services providers was which might have prevented consumers from taking up actions, for example, when filing a complaint. Consumers might have been deprived of the access to the important information and as a consequence a capacity to informedly conclude transaction under the explicit and transparent rules.

President of UOKiK, Tomasz Chróstny, has charged the companies: Zalando, Booking, and Travelist with infringement of collective interests of consumers which is subject to a fine in the amount equal to up to 10% of revenue.

For more than half a year, new provisions arising from the Omnibus Directive have been in effect which largely strengthen consumer protection. Among them, an important change concerns the new rules of informing about promotional prices and the necessity to state the lowest prices during the 30 days before the price reduction. [UOKiK has been monitoring both the traditional and e-commerce markets.](https://uokik.gov.pl/aktualnosci.php?news_id=19716&news_page=1)

**Consumer Support:**

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