

Legal Alert

The Act on Combating Unfair Competition

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On 14 June 2007, the Polish Parliament passed the Act on Combating Unfair Competition (the "Act"), which is currently awaiting the President's signature.

The Act implements European Union regulations into Polish law which address the practice of exerting a negative influence on the economic decisions of consumers involving the purchase of goods and services.

The most important aspects of the Act

- The Act introduces the concept of "unfair market practices" (defined in Polish law for the first time), and prohibits their application.
- A market practice is considered unfair if both of the following features occur:
 - it is contrary to good practice
 - it negatively influences or may negatively influence the market behaviour of the average consumer *vis-à-vis* goods or services.
- The following market practices are regarded as exceptionally unfair:
 - misleading market practices involving an action or inaction which, by depriving the average consumer of access to important information, may deny him the possibility of making a free choice
 - aggressive market practice involving the exertion of unlawful pressure which considerably reduces or may reduce the average consumer's freedom of choice.
- The Act contains a list of specific practices which are deemed unfair regardless of the circumstances – a so-called "black list of unfair market practices".
- Consumers have been accorded a particular right to submit individual claims for unfair practices, whereby they may demand:
 - the discontinuation of the practice,
 - the removal of its effects,
 - the submission of appropriate declarations,
 - a repair to the loss caused,
 - payment of a sum of money for a social objective set forth in the Act.
- Also entitled to submit claims for unfair practices are the Ombudsman for Citizens' Rights, the Ombudsman for Insured Persons, a national or regional organisation whose statutory purpose is the protection of consumer interests, and a county (*powiat*) or a municipal consumers' spokesman. However, the catalogue of claims which these bodies may submit is limited.



- The Act provides the following sanctions for unfair practices:
 - fines in the case of aggressive market practices, and
 - imprisonment if such activity is organised or conducted in an **organised** manner.

The Act takes effect three months following its publication, which can be expected during the current Parliament's term of office.

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