

HOW RETAILERS CAN AVOID FINES FROM THE CONSUMER PROTECTION AUTHORITY

The National Authority for Consumer Protection ("**ANPC**") imposed sanctions during Q1 2016 upon clothing retailers in Romania, in the aftermath of various inspections targeting compliance with marketing, advertising and labeling regulations.

Most sanctions were applied by ANPC for non-compliance with the mandatory legal provisions on consumer protection. In some cases, ANPC ordered suspension of trading in those non-compliant products until legal compliance would be ensured.

The inspections revealed: (i) non-compliant *advertising* of products; (ii) non-compliant *labeling* and marking of products (e.g. lack of fiber composition labels, lack of Romanian translation of the respective labels); and (iii) *unlawfulness* regarding operation (e.g. improperly displaying the name of the unit and working schedule or lack of the Trade Registry registration certificate of the company).

Main sanctions which are often applied by ANPC during the sale/discounts periods are related to the following non-compliant behavior of retailers: (i) wrongful or misleading display of discounts (e.g. the applicable reference price was not taken into consideration when the discount percentage was calculated), (ii) application and display of the discounts only at the point of sale, (iii) lack of display of the available promotional sales period/duration and (iv) lack of clear separation between the products subject to promotional sale and other products.

The main legislation applicable in this respect, namely Ordinance no. 99/2000 on trading market products and services, provides the following general rules to be followed by retailers for setting and indicating price reduction:

- (i) **any indication of price reduction must be determined in relation to a reference price.** The reference price represents the lowest price charged in the same selling space for identical goods or services in the last 30 days prior to the date on which the reduced price is indicated;
- (ii) **any indication of price reductions, regardless of the form, motivation or advertising method, must be addressed to all customers and must be indicated as a numeric discount in relation to the reference price (e.g. stickers displaying discounts up to 20%); and**
- (iii) **clothing retailers have the obligation to ensure that any price reduction announcement, expressed in absolute value or in percentage, is visible, legible and unequivocal for each product or group of identical products, in one of the following ways:**

- either by mentioning the new price, next to the old price, which is crossed out;
- either by mentioning "new price", "old price", next to the appropriate amounts; or
- either by mentioning the percentage of price reduction and also the new price which is to be presented next to the old price, which is crossed out.

Further, **any price reduction advertising that is addressed to consumers and which involves a quantifiable comparison, must specify: (i) those products or services or categories of goods or services referred to in the advertisement and (ii) the period for which those goods or services are offered at reduced prices or specify that such goods or services are "limited while stocks last".**

Non-compliance with these above mentioned legal provisions may result in ANPC imposing sanctions of up to RON 10,000 and suspension of activity until further legal compliance is insured.

We note that ANPC systematically organizes inspections, especially during seasonal sales periods and promotional sale periods (e.g. Easter promotions, Black Friday), so retailers should be aware of this.

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For more information about our services, please contact:



Ileana Glodeanu
Partner
ileana.glodeanu@wolftheiss.com
T: +40 21 308 81 00



Mircea Ciocirlea
Associate
mircea.ciocirlea@wolftheiss.com
T: +40 21 308 81 00



Monica Ținteanu
Associate
monica.tinteanu@wolftheiss.com
T: +40 21 308 81 00

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Wolf Theiss
Gheorghe Polizu 58-60, 13th floor
sector 1, 011062, Bucharest

www.wolftheiss.com