

Poland: Websites Under Competition Authority's Watchful Eye

Article By:

Marcin S. Wnukowski

Karolina ?asowska

Toward the end of September 2020, a draft amendment of the Act on Competition and Consumer Protection (the Draft) was up for public consultation in Poland. The provisions of the Draft are currently being agreed upon. The objective is to incorporate into the Polish legal framework Regulation (EU) 2017/2394 of the European Parliament and of the Council of 12 December 2017 on cooperation between national authorities responsible for the enforcement of consumer protection laws and repealing Regulation (EC) No. 2006/2004, i.e. the so-called CPC regulation (CPC), providing for enhanced competences of consumer protection authorities with regard to investigating and enforcing the provisions pertaining to breaches of such laws. Some of the competences under CPC are to be allocated to the president of the Office of Competition and Consumer Protection (UOKiK) acting individually, while the remaining measures are to be taken in cooperation with other authorities.

As emphasised by the authors of the Draft, amending the Polish regulations will enhance consumer protection online and boost the efficiency of the measures taken by UOKiK.

Blocking Websites

As part of its new competences, UOKiK will now be able to block entrepreneurs' websites, without commencing any procedures beforehand. If concerned about competition and consumer protection, UOKiK may request that an entrepreneur warn consumers visiting its website, delete certain content or restrict access to it, or even take the internet domain down entirely. Should an entrepreneur refuse, UOKiK will be able to – by way of an administrative decision – oblige it to take certain measures. While such a decision may be appealed in court, an entrepreneur may not operate its website until a ruling has been issued.

The contemplated legislation has raised controversy, as it lacks express grounds and fails to indicate any circumstances under which websites may be blocked. Some have voiced concerns that this may lead to abuse and arbitrary website shutdowns without proper procedures having been conducted. This may encroach upon the fundamental and constitutional liberty to pursue business operations. UOKiK disagrees with such argumentation, claiming that the possibility to block websites arises from

CPC and it is to be used under extraordinary circumstances, e.g. to counteract the most serious instances of e-commerce fraud. A question remains whether – rather than extending UOKiK's competences – it would be better to fine-tune the procedure for efficient investigations and to more extensively warn online consumers.

Deleted Domains Register

According to the Draft, internet domains deleted by way of a final or forthwith enforceable decision will be entered into the deleted domains register, created for this very purpose and kept by UOKiK. The register will be public, which means everyone will have the right to access the data gathered there. Furthermore, the register will be electronic, which will enable automatic information transmission to the electronic systems of telecommunications entrepreneurs.

Purchases Under a False Identity

Another contemplated UOKiK improvement is the possibility for it to take active measures to gather evidence related to consumer law breach matters. According to the Draft, UOKiK will be able to purchase under a false identity (using public documents or other documents preventing ascertaining its identity) in order to obtain information that may be used as evidence in related legal proceedings. This mechanism can be used to obtain information that may potentially be entered as evidence in matters of practices breaching group consumer interests. The president of the Internal Security Agency (ABW) will be responsible for preparing any documents preventing UOKiK's identification. Furthermore, any investigative measures will be recorded using video and audio equipment without informing the party under investigation of that fact. Any concerns related to the manner of this investigation may be lodged with the competition and consumer protection court.

Closing Down the Financial Ombudsman Office

On 28 October 2020, the government proposed new legislation by virtue of which the tasks pursued by the Financial Ombudsman will be taken over by UOKiK (the draft was submitted to the Parliament on 9 December 2020). According to the justification of this legislation, the objective of the draft is to enhance the efficiency of protection, in terms of both group and individual interests of financial market entities' clients. According to the new regulations, a new position of coordinator conducting out-of-court procedures in matters of resolving disputes between financial market entities and their clients will be established. Such coordinator will be appointed by UOKiK for a four-year term. Moreover, the new regulations provide for creating the Financial Education Fund (FEF), a special-purpose fund managed by UOKiK.

Summary

The contemplated changes have raised controversy. On the one hand, efficient consumer rights protection – particularly in the realm of e-commerce – requires additional competences of the authorities tasked with protecting such rights, enabling them to adequately react to irregularities. Commerce and rendering all sorts of online services has proven difficult to control using traditional measures, while fast-paced online trade also calls for swift action on the part of UOKiK. On the other hand, swift action does not always enable entrepreneurs to efficiently defend themselves, particularly as appealing decisions to block a website may be lengthy, and consequently detrimental to a business relying on trade from its website. The draft incorporating CPC is expected to be adopted in Q1 of 2021. Therefore, we will likely see the final Draft prior to that. In the meantime, the government

is proposing new amendments that will strengthen the position of UOKiK even further.

The Polish version of this article is also available to view online: [WERSJA POLSKA](#)

© Copyright 2025 Squire Patton Boggs (US) LLP

National Law Review, Volume XI, Number 41

Source URL: <https://natlawreview.com/article/poland-websites-under-competition-authority-s-watchful-eye>