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**Report on the Implementation of the United Nations
Guidelines for Consumer Protection by Member States and
Relevant Stakeholders**

Contribution

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INDECOPI - Peru

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Contribution of Peru on the matters to be discussed.

1. Report on the implementation of the United Nations guidelines for consumer protection by Member States and relevant stakeholders:

The status on consumer protection according to the United Nations guidelines on this matter is detailed below:

a. National policies for consumer protection

In the Peruvian case, the consumer defense framework is defined in article 65 of the Political Constitution: "The State defends the interest of consumers and users. For this purpose, it guarantees the right to information about the goods and services that are available to it in the market. It also ensures the health and safety of the population.

Since 2010, the regulatory framework for consumer protection has been strengthened with the Consumer Protection and Defense Code (hereinafter, the Code) and the constitution of the Integrated National System for Consumer Protection with Indecopi as the National Authority and in which the need to have a National Consumer Protection and Defense Policy is established.

Since 2017, Peru has had a National Consumer Protection and Defense Policy, as a State policy that includes all levels of government and public and private actors.

This policy is based on six principles, which are translated into four strategic axes referring to:

- a) Education, guidance, and dissemination of information.
- b) Protection of the health and safety of consumers.
- c) Mechanisms for the prevention and solution of conflicts between suppliers and consumers; and
- d) Strengthening of the National Integrated System for Consumer Protection.

These lines of action are translated into strategic guidelines that were implemented, in part, in the National Consumer Protection Plan for the period 2017-2020.

Peru is currently updating the design of a National Consumer Protection and Defense Policy with a horizon of 2030. The new proposal, put forward by the National Consumer Protection Council, aims to address the problem of the low level of protection and empowerment of consumers in their consumer relationship and includes transversal approaches to human rights, intercultural, territorial and gender.

Likewise, it has 5 main objectives¹ and 12 guidelines under which the various activities related to consumer protection must be deployed. These are framed within the United Nations Guidelines and recommendations given in the Voluntary Peer Review of Law and Consumer Protection Policy of Peru.

b. Physical security

Peru places physical security in Axis II of its National Consumer Protection and Defense Policy.

In accordance with this, article 25 of the Code also states that the products or services offered on the market must not entail, under normal or foreseeable conditions of use, an unjustified or unnoticed risk to the health or safety of consumers or their property.

In this regard, Peru has created the System of Dangerous Products and Services, in charge of the National Consumer Protection Authority, whose objective is to provide timely information to consumers on any incident that may put their health and integrity at risk^{2 3} through its portal www.alertasdeconsumo.gob.pe.

c. Promotion and protection of the economic interests of consumers.

Article VI, numeral 3 of the Preliminary Title of the Code states that the State guides its actions to defend the interests of consumers against those practices that affect their legitimate interests and that distort the market to their detriment, and seeks that they have a role Active in the development of the market, informing yourself, comparing and rewarding the loyal and honest supplier with your choice and asserting your rights directly before the suppliers or before the entities.

In this line, the Code expressly establishes literal c) of article 1, the right to protect the economic interests of consumers and, in articles 56, 58 and 62, coercive, aggressive, or deceptive commercial methods are prohibited, speculation or hoarding in an emergency or any other similar crime and misleading information about products or services. Similarly, Chapter V of Title I of the Code develops provisions on the protection of economic interests.

Likewise, regarding commercial advertising, Indecopi has supervised commercial promotion campaigns with discounts, such as "Cyber Days", "Black Friday", "Cyber Wow", among others. From 2019 to date, 135 preliminary investigations into promotions have been initiated.

¹ OP.01 Reduce the ignorance of consumer rights among citizens; OP.02 Guarantee the availability of information on consumer protection addressed to the public; OP.03 Increase suppliers' compliance with the obligations contained in consumer protection regulations; OP.04 Guarantee the mechanisms for solving consumer disputes in the competent entities; OP.05 Strengthen institutional governance among members of the National Integrated System for Consumer Protection.

² As established in articles 28, 29 and 136 of the Consumer Protection and Defense Code and Supreme Decree No. 050-2016-PCM, which approves the Regulation that establishes the procedure for communication of warnings and alerts of non-public risks. of products or services placed on the market that affect the health and/or safety of consumers.

In accordance with numeral 2 of Article IV of the aforementioned Code, suppliers are recognized as natural or legal persons, under public or private law, who habitually manufacture, prepare, handle, condition, mix, package, store, prepare, sell, supply products or provide services of any nature to consumers; that is to say to all those who intervene from the extraction of the product to the delivery to the final consumer.

³ Regarding the methods to ensure that consumers are informed, Peru has a repository of published consumer alerts <https://www.alertasdeconsumo.gob.pe/>, which stores consumer alerts from 2012. Currently, consumers, providers and industry authorities may be able to subscribe to automatic notification of the publication of these alerts. Additionally, these alerts are disseminated through Indecopi's institutional channels, including its social networks. Likewise, consumer alerts are replicated on the Inter-American Rapid Alert System - SIAR portal, run by the Organization of American States - OAS Safe Consumption and Health Network.

Additionally, the Commission for the Inspection of Unfair Competition of Indecopi through Resolution No. 186-2021/CCD-Indecopi, has established a binding criterion (mandatory observance precedent) for all suppliers, referring to the dissemination of prices or discounts misleading. In accordance with this precedent, when an economic agent develops a sales promotion consisting of a price or percentage discount, or some equivalent modality, it must comply with the fact that it is exceptional and temporary, as well as that it is calculated or referenced with respect to the "ordinary or standard" offer; otherwise, it would be distorting the very concept of sales promotion and committing an act of deception, affecting the economic interests of consumers and other providers.

Finally, the "Guide on Supervision of Promotions with misleading discounts" has been published. This informative and referential guide contains guidelines provided by the Consumer Protection Authorities of the member countries of the Ibero-American Forum of Government Agencies for Consumer Protection (FIAGC) so as not to deceive consumers in commercial promotions with discounts.

d. Standards for the safety and quality on services and consumer goods

In relation to the safety and quality of services and consumer goods, Peru has the following instruments:

- **Political Constitution of Peru**, article 65 cited at the beginning of this document.
- **National Consumer Protection and Defense Policy**, Supreme Decree No. 006-2017-PCM: Considers in Policy Axis 2 the protection of the health and safety of consumers, so that the State focuses on the implementation of actions that allow the verification and monitoring of the market to avoid the commercialization of products and the provision of services that threaten the life, health, and safety of consumers.
- **Code on Protection and Defense on Consumer**, Law No. 29571: Indecopi oversees the Dangerous Products and Services Consumption Alert System, whose objective is to provide timely information to consumers on any incident that may put their health at risk and integrity, in accordance with the provisions of articles 28, 29 and 136 of the Code. Likewise, article 25 of the Code establishes the general duty of safety, which establishes that the products or services offered on the market must not entail, under normal or foreseeable conditions of use, an unjustified or unrecognized risk to health or safety. of consumers or their goods.
- **Supreme Decree No. 050-2016-PCM**: This instrument approves the Regulation that establishes the communication procedure for warnings and alerts of unforeseen risks of products or services placed on the market that affect the health and/or safety of consumers.
- **Sectoral regulations**: Likewise, it seeks to safeguard the safety and health of consumers by requiring sanitary authorizations or other requirements established by the corresponding sectoral regulations for the commercialization of certain products, such as toys, food safety, medicines, sanitary products, among others.

e. Dispute resolution and compensation

Within the framework of the mechanisms for the prevention and resolution of conflicts between suppliers and consumers, whose indicators are intended to promote their

development and simplification, various means of dispute resolution in consumer matters have been implemented:

- **Complaints Book:** tool that every provider operating in Peruvian territory must have so that the consumer can present a claim or complaint to the provider in the event of a disagreement with the product or service offered by it. The Book grants the provider the possibility of solving the claim or complaint immediately or deferred, without the need for the intervention of the authority.

- **Claims Attention Service:** consumers can file a claim free of charge with the Indecopi Subdirectorate for Citizen Services (SBC), by phone, in person, by letter, or through the digital tool "Virtual Claim", which is used to manage consumer claims online. In this case, the SBC provides the mediation and conciliation service to promote an agreement between the consumer and the provider. In this regard, the virtual platform "Concilia Fácil" stands out, which allows virtual conciliation hearings to be held in which consumers, suppliers and Indecopi officials participate.

- **Consumer Arbitration:** It is a free mechanism, since it is not subject to the payment of a fee by the consumer, and it is the only one that contemplates the possibility that compensation can be determined in favor of the consumer.

- **Union Ombudsmen:** These are self-regulation systems, freely created by the suppliers of a specific business association, with the purpose of offering consumers a direct solution to their claims.

- **Administrative sanctioning procedure:** In charge of the decision-making bodies of Indecopi, the supplier that has infringed the consumer protection regulations may be subject to an administrative sanction that implies a reprimand or the imposition of a fine. Likewise, within the framework of this procedure, it is possible that corrective measures be granted in favor of consumers, which are intended to compensate and/or reverse the effects of the provider's infringing conduct.

- **Judicial Processes:** Lawsuits for collective interests

Article 130 of the Code for the Protection and Defense of Consumers provides that Indecopi is entitled to promote legal proceedings ex officio in defense of the diffuse and collective interests of consumers. Likewise, this power can be delegated to consumer associations.

f. Education and information programs.

In 2020, the "Guide for teachers, how to design classes to train consumers?", a methodological guide for the training of teachers in consumer protection that allows strengthening the training of students in consumer protection, in accordance with the competence: 'Responsibly Manage Economic Resources', within the framework of the National Education Curriculum Basic, and what is established in the Consumer Protection and Defense Code. In this regard, it should be noted that this guide was disseminated in various spaces of the educational community in the country, with special mention during the COVID-19 pandemic.

In 2021, an agreement was signed with the Ministry of Education in order to give sustainability to Indecopi's actions with the actors of the education ecosystem, within the framework of the decentralization of education in the country. The objective is to strengthen the education of Basic Education students in relation to their rights and obligations in terms

of consumer protection, intellectual property and defense of fair competition, as well as the training of teachers, non-teaching professionals and non-teaching staff. professionals who participate in the provision of Regular Basic, Special Basic and Alternative Basic Education services in the national territory to benefit more than 7 million students and 700,000 teachers throughout the country.

In 2020, an alliance was signed with World Vision Peru, to strengthen the participation of Civil Society in consumer protection from Regular Basic Education at the national level. In addition, the Analit Network was integrated into this work to promote dialogue on the way to joint work on consumer protection, to pay attention to the problems of children and adolescents at the national level. In March 2023, more than 60 youth leaders from all over the country, members of the Analit Network, were trained by Indecopi in 'The protection of children and youth regarding their rights as consumers'.

Since 2021, Indecopi has led the information campaign "Back to school", which seeks to empower citizens, especially fathers and mothers with school-age children from private schools, in the rights they have when acquiring these services and in Obligations that suppliers must comply with. This makes it possible to strengthen the national intervention strategy in Regular Basic Education, from the sphere of citizen empowerment, through parents during the beginning of the school year. This year, 31 informative talks have been held nationwide, aimed at educational institutions, authorities, fathers and mothers, and the public, reaching almost 2,000 beneficiaries from various regions of the country. On the Indecopi Official social networks (Facebook, Twitter and Instagram), 366,987 people were reached, with 41,430 impressions, 5,178 interactions, and 104 comments, from January 12 to March 10, 2023.

g. Promotion of sustainable consumption

Since 2020, Indecopi has been a member of the Multisectoral Technical Commission for the Comprehensive Management of Single-Use Plastic, led by the Ministry of the Environment. The objective of this Commission is to monitor and evaluate the results of the implementation of Law No. 30884 (Law that regulates single-use plastic and disposable containers or containers, prohibits the consumption of those plastic products that are unnecessary) and its Regulations, as well as proposing mechanisms for the comprehensive management of single-use plastic and the transition towards the circular economy of plastic. Likewise, we must point out that, within the framework of the National Council for Consumer Protection, chaired by Indecopi, in the session of September 15, 2022, sustainable consumption and care for the environment were addressed. In response to this, the members of the Council agreed to set up a working table on sustainable consumption, to deal with the problems on this matter with the goal of generating that consumption decisions are made considering the impact to the environment and its impact on the ways of human life in the future.

Finally, Indecopi, through the Unfair Competition Oversight Commission, participates in the OECD Working Group on Sustainable Consumption. In this sense, to date the execution of an empirical project on this subject has been coordinated, for which the delegates have reviewed the terms of reference for the hiring of the corresponding consultant. Said project plans to be executed in August 2024 approximately.

h. E- Commerce

On April 5, 2021, Indecopi published the proposal to update the Consumer Protection and Defense Code to regulate electronic commerce in Peru, protect the consumer who buys online, to offer the level of protection that is not lower than that provided by commercial establishments that operate through traditional mechanisms.

With this proposal we seek to open the discussion on the need to regulate electronic commerce in Peru, which is why a deadline was established for comments from the various sectors. Among the main proposals that are raised in terms of electronic commerce for the benefit of consumers we have:

- **Right of repentance:** The consumer's power to unilaterally cancel the purchase or contracting of a product or service is established, without the need to justify their decision and without any penalty, within a maximum period of up to 15 days from receipt. of the product or the contracting of the service.
- **Intermediaries will also be considered service providers:** The proposal states that intermediaries, that is, natural or legal persons that provide physical intermediation services or through digital channels, establishing the terms and conditions in the consumer relationship, that set the price of the product or service offered, will also be considered service providers.
- **Truthful, clear, and complete information:** The company or person that sells products and services through digital channels must inform the consumer clearly and completely about the terms and conditions of the contract, product specifications, delivery times, guarantees, total price, freight, among others. Likewise, we seek that providers that operate from other countries inform their channels of attention to claims in the country in which they carry out their activities, to safeguard the consumers who, contract with them who have the right to communicate the controversies that arise. in consumer relationships.

It should be noted that there is currently a bill in the Congress of the Republic that partially includes the Indecopi proposal, so we are awaiting its debate and approval in that instance.

i. Financial services

Consumer protection regarding access and use of financial services.

In Peru, the competent entity in charge of regulating and supervising financial systems to preserve the interests of users is the Superintendence of Banking, Insurance and AFP (SBS). Notwithstanding this, the Code establishes a series of obligations that must be fulfilled by the companies supervised by the SBS.

Accordingly, Indecopi and the SBS coordinate constantly to guarantee the protection of consumers of financial services. Currently, the SBS has sent us resolutions through which it has ordered sanctions against financial entities for improper charges to their consumers, for Indecopi to execute the pertinent actions that guarantee the rights of affected consumers; This is because the SBS does not have the powers to impose corrective measures that, in some way, can compensate the damage caused to consumers.

In addition, during 2022 we have published the following guides on financial services.

-Comparison: Card protection insurance⁴

In October 2022, the comparison related to credit and debit card protection insurance offered by different banks nationwide was published, providing information on prices, coverage amounts, number of events that could cover you per year, as well as the modalities under which you can cash your insurance.

- Recommendations to avoid over-indebtedness⁵

In December 2022, Indecopi provided advice to avoid over-indebtedness on the end-of-year celebrations.

j. Measures relating to specific areas (food, water, pharmaceuticals, energy, public services, tourism)

- Guide for consumers in emergency situations in Peru: In response to the emergency situations that Peru faces due to climate change, Indecopi has published a guide with recommendations and advice on basic services, educational services, health services, among others, to provide information to people who are in locations in emergency situations.

- Measures related to pharmaceutical products: Since August 13, 2013, the competent entity to hear alleged violations of the rights of consumers in the health sector is the National Health Superintendency - SUSALUD, attached to the Ministry of Health.

Notwithstanding this, in September 2021, the Commission for the Defense of Free Competition of Indecopi published the "Report on the retail marketing of medicines in clinics market", through which they detail the problems related to the difficulty of access to medicines in private clinic pharmacies.

For this reason, Indecopi has maintained coordination and meetings with SUSALUD, with the General Directorate of Medicines, Supplies and Drugs of the Ministry of Health and with the Association of Private Clinics, with the purpose of coordinating actions that can guarantee the access of the pharmacists to all consumers.

2. Latest developments in legal and institutional frameworks: world map of consumer protection from UNCTAD.

In Peru, at the legislative level in terms of consumer protection, we are in the phase of evaluating the regulatory impact of certain measures projected for its development during the year 2023. It is important to indicate that it is mandatory to carry out this evaluation by virtue of the order by the regulations on administrative simplification, modernization of the State and improvement of regulatory quality that governs in Peru.

In this way, we are developing the Ex-Ante Regulatory Impact Analysis (AIR Ex Ante) of six (6) regulatory projects:

- Regulatory project on the new Directive on registration, recognition, and participation of consumer associations in procedures for the defense of consumer rights.

⁴ Consulta en: <https://www.gob.pe/institucion/indecopi/informes-publicaciones/3593455-checa-tu-seguro-comparativo-deseguros-de-proteccion-de-tarjetas-ofrecidas-por-los-bancos>

⁵ Consulta en: <https://www.gob.pe/institucion/indecopi/informes-publicaciones/3729848-como-evitar-endeudarte-en-estas-fiestas>

- Regulatory project on modification of the Code to allow consumer associations to initiate lawsuits in defense of the collective interests of consumers without the need to request delegation of powers to Indecopi.
- Regulatory project on the implementation of improvements in the alert system on risky products, emphasizing the improvement of coordination for the operation of the system.
- Regulatory project on the possible implementation of a single window on administrative procedures on violations of the regulations on consumer protection before the different entities and regulatory bodies with competence by specialty.
- Regulatory project on the alternative solution on the diversification of forms of financing of consumer associations to improve their participation in the National Integrated System of Consumer Protection.
- Regulatory project on the promotion of direct solutions between suppliers and consumers regarding claims due to violations of consumer protection regulations.

It should be noted that all the regulatory projects that are under evaluation are born as explicit recommendations that UNCTAD has made in the final report of the Peer review on Consumer Protection Peru issued in 2020. In this way, these initiatives seek to comply with what is expressed in the UNCTAD guidelines in terms of consumer protection, in accordance with the parameters that other countries have on the same issues.

3. Reports of the Working Groups:

- Consumer product safety: On May 4, Peru participated in the workshop where the Indecopi representation shared the characteristics of the Peruvian product safety system.
- Consumer protection in electronic commerce: Peru has been participating in meetings and responding to various questionnaires related to this topic. Definitely, the work undertaken in relation to cross-border cooperation in enforcement matters, proposed on the agenda of this group, is of great interest.
- Consumer protection and gender: On May 17, Peru participated in the event "Best practices and experiences in consumer protection and gender", where we had the opportunity to join the panel that addressed financial services.

4. Build trust in digital markets through stronger online consumer protection

Regarding this aspect, Indecopi during 2022 has seen the need to intensify the promotion of relevant information for consumers and suppliers. Thus, we have carried out the following actions: i) Dissemination campaign and/or communications on "Dark Patterns", fraud in the financial system, Internet purchases ("Cyber Wow", etc.) and ii) Comparative tools: "ChecaTuCompra: Patrones Oscuros", mobile delivery applications to the most used, card protection insurance offered by banks.

Likewise, Indecopi has continued to encourage good practices in suppliers, through the "Ciudadanos al Centro" contest, which included recognition of good practices implemented for the benefit of consumers in electronic commerce (related to information, exchange procedures or returns, protection of personal data, among others).

5. Consumer protection and transition to clean energy.

The actions carried out related to advertising with environmental claims are the following:

- Active supervision of advertising with environmental claims, mainly on social networks (Instagram and Facebook) and sales platforms (Mercado Libre, OLX, Linio, Facebook Market Place and Lumingo). From 2020 to date, more than 800 preliminary investigations have been initiated into advertising with environmental claims with statements such as "ecological", "sustainable", "natural", among others, corresponding to the food, cleaning products, products personal care, among others. This demonstrates the application of the United Nations guidelines by the CCD, related to the fact that they must adopt measures against misleading information or statements in relation to the environment in advertising activities and other marketing activities.

- Publication of the "Guide on Environmental Advertising" project. Its objective is to promote and guide the responsible use of "green advertising" that grows with the preference of consumers for products and services that have a positive impact on the environment. The document proposes the principles that advertisers must follow and points out examples of good and bad practices, as well as recommendations, to avoid harmful actions. This evidence the application of the United Nations guidelines by the CCD, referring to the elaboration of norms and adequate publicity codes to regulate and verify the affirmations that are made in relation to the environment.

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