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EXTRAORDINARY

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PART I : SECTION (I) — GENERAL

Government Notifications

Direction No. : 91

L.D.-B 4/2011

CONSUMER AFFAIRS AUTHORITY ACT, No. 09 OF 2003

Special Direction under Section 10(1)(b)(ii)

BY virtue of the powers vested in me under Sub-paragraph (ii) of Paragraph (b) of Sub section (1) of Section 10 of the Consumer Affairs Authority Act, No. 09 of 2003, I, Shantha Niriella, Chairman of the Consumer Affairs Authority, do hereby direct for the protection of the consumer that any e-commerce entity or platform operator engages in marketing and selling of any goods shall at the three stages specified in Column 1 of the Schedule hereto in carrying out any activity relating thereto as specified in the corresponding entry in Column 2 of that Schedule, comply with the conditions specified in the corresponding entry in Column 3 of that Schedule.

Chairman,
Consumer Affairs Authority.

Colombo,
17th May, 2023.

For the purposes of this special direction,-

“e-commerce” means, the business activities of the sale of goods, services or digital content through the internet or other information network;



“e-commerce entity” means, the online sellers and sellers operating on platforms;

“Online Seller” means, a vendor who carries out any e-commerce, through the own website owned by such vendor or other information networks owned or controlled by such vendor;

“Platform” means, a digital or electronic network that enables the sellers operating on platforms to conduct an e-commerce through such digital or electronic network, by allowing consumers to connect with Sellers Operating on Platforms to purchase goods, services or digital content on such digital/electronic network;

“Platform operators” means, a third party who owns or operates a platform;

“Sellers Operating on Platforms” means, an e-commerce vendor who sells or offers goods to consumers.

SCHEDULE

Stages of transaction	Activity	Conditions
Pre-purchase stage	(1) Fair business, advertising and marketing practices	<p>Any e-commerce entity or Platform Operator -</p> <p>(a) when advertising any goods shall not make any representation or omission, or engage in any practice which is deceptive, misleading, or anti-competitive;</p> <p>(b) shall, inform the consumer in respect of any special offer of goods or free trial, the eligibility requirements for such offer or free trial in a clear and unambiguous manner, including the length of the sale or offer and any additional charges that may incur which are not described in such offer or trial;</p> <p>(c) shall ensure that all key conditions relating to any offer or sale are easily discernible, readable and comprehensible in the text in which such conditions are specified;</p> <p>(d) shall ensure that the actual purchasing price of a good is the price posted on the platform for such good;</p> <p>(e) shall not use disclaimers to counter false or misleading pricing claims in advertisements; and</p> <p>(f) shall in carrying out any business activity, adhere to the provisions of the Consumer Affairs Authority Act, No. 9 of 2003 where applicable.</p>

- (2) Unsolicited emails, SMS etc. Any e-commerce entity or a platform operator shall develop and implement effective and easy-use procedures that allow consumers to choose the option of receiving or non-receiving of unsolicited commercial e-mail messages, etc.
- (3) Consumer Reviews Any e-commerce entity or a platform operator -
- (a) shall have a fair and transparent rating and review mechanism for collecting and publishing reviews of consumers;
 - (b) shall not publish false ratings or false reviews on the rating and review of consumers;
 - (c) shall not hire third parties to post ratings and reviews on the rating and review mechanism;
 - (d) shall disclose in a clear and conspicuous manner any incentives provided to consumers for ratings and reviews posted by them;
 - (e) treat equally, all ratings and reviews posted by consumers irrespective of their positive or negative nature and shall not attempt to discourage negative reviews or ratings.
- (4) Transparency of information Any e-commerce entity or a Platform operator shall -
- (a) publish all information relating to the business activity including the goods or rating in a non-misleading manner;
 - (b) establish a proper and accessible communication mechanism for customers to connect with such e-commerce entity or Platform operator;
- (5) Collection of data Any e-commerce entity or a Platform operator shall-
- (a) send a privacy statement to consumers when obtaining their personal data;
 - (b) establish procedures for the consumers to access their personal data input in the profiles enabling them to review and edit such data in order to update them;

Purchase Stage	(1) Order confirmation	Any e-commerce entity or a platform operator shall provide the consumers with an opportunity to review a summary of the order prior to any order confirmation.
	(2) Transparency of transaction	<p>Any e-commerce entity or a platform operator shall -</p> <ul style="list-style-type: none"> <li data-bbox="901 533 1460 658">(a) not misrepresent or hide the terms and conditions relating to any transaction that are likely to affect the decision of a consumer regarding such transaction; <li data-bbox="901 707 1460 833">(b) not use misleading contract terms, and shall provide consumers with a clear and full statement of the relevant terms and conditions of the transaction; <li data-bbox="901 882 1460 1039">(c) provide information in respect of the terms, conditions and costs associated with a transaction that is sufficient to enable the consumers to make an informed decision regarding such transaction; <li data-bbox="901 1088 1460 1245">(d) enable the consumers to retain a complete, accurate, and durable record of the transaction, in a format compatible with the device or platform that the consumers use to complete the transaction; <li data-bbox="901 1294 1460 1361">(e) where applicable and appropriate, issue a receipt for the transaction, which shall include- <ul style="list-style-type: none"> <li data-bbox="957 1411 1460 1536">(i) the price, including all fixed charges collected or imposed by the respective e-commerce entity or the platform operator; <li data-bbox="957 1568 1460 1756">(ii) Information in respect of any compulsory (fixed or variable) or optional charges collected or imposed by the respective e-commerce entity or the platform operator before the transaction is confirmed by the consumer; <li data-bbox="957 1787 1460 1912">(iii) information in respect of any other routinely applicable costs (recurring charges) if any, to the consumer that are collected or imposed by any third party;

- (iv) method of payment and other terms and conditions where and when applicable, including contract duration of recurring charges, such as automatic repeat purchases and subscription renewals and ways to opt out from such automatic or renewal arrangements;
- (v) terms relating to delivery of the goods;
- (vi) details relating to conditions applicable to withdrawal, termination or cancellation, after - sales service, return, exchange, refunds, warranties and guarantees;
- (vii) privacy policy; and
- (viii) information on applicable dispute resolution and redress options relating to a purchase.

(3) Payment terms

Any e-commerce entity or a platform operator shall provide consumers with easy to-use payment mechanisms and implement security measures that are commensurate with payment-related risks, including those resulting from unauthorized access or use of personal data, fraud and identity theft.

(4) Delivery and logistics

Any e-commerce entity or a platform operator shall -

- (a) Provide the consumers with an opportunity to review summary information about the services relating to delivery of goods and pricing information before the consumers are asked to confirm a transaction;
- (b) when delivering goods to the consumer, delivery to be made by logistics, e-commerce entities or the platform operator, as the case may be, using reliable logistics providers for such purpose
- (c) take steps to deliver the goods without any unreasonable delay.

	(5) Cooling off periods and right of cancellation of orders	Any e-commerce entity or a platform operator shall where appropriate and practicable offer the consumers an opportunity to withdraw from a confirmed transaction.
	(6) Privacy and data protection	Any e-commerce entity or a Platform Operator shall - <ul style="list-style-type: none"> (a) not engage in deceptive practices related to the collection and use of personal data of the consumers; (b) protect consumer privacy by ensuring that the practices of such e-commerce entity or the platform operator relating to the collection and use of consumer data are lawful, transparent and fair, enable consumer participation and choice, and provide reasonable security safeguards ; (c) adopt clear, prominently displayed privacy policies.
Post-purchase stage	(1) Warranty	Any e-commerce entity or platform operator may - <ul style="list-style-type: none"> (a) sell goods to any consumer subject to implied warranties based on the principle of 'fair value for money spent', which shall include warranty or merchantability and he warranty of fitness for a particular purpose ; (b) Where a product is sold 'as it is', still be responsible if the item sold is dangerous and causes personal injury to any person.
	(2) Product safety	Any e-commerce entity or a platform operator shall - <ul style="list-style-type: none"> (a) have an adequate awareness of product safety requirements and ensure that such safety requirements have been disclosed to the consumer ; (b) assist the customer in resolving potential safety issues of the goods sold; (c) set up consumer feedback mechanism in respect of goods sold.