

Chapter 7

Consumers' Right to Information in the Remote Sale of Goods as a Factor of Inclusive Growth



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Abstract The authors claim that remote sale reduces the costs of consumers for the purchase of socially significant goods and increases the availability of such goods for all groups of the population, regardless of the location of the consumer. This is interpreted by the authors as one of the factors of inclusive growth. It is proposed to consider the right of consumers to receive reliable and complete information about the product as a subjective right that provides everyone with equal opportunities to meet household needs and improve well-being. The key role of the consumers' right to information in the system of measures is emphasized that ensure satisfaction of their legitimate interests in the remote sale of goods. General proposals are formulated to improve the Russian legislation regulating relations in the field of consumer protection.

7.1 Introduction

The need to ensure the effective comprehensive long-term development of society leads to the search for new criteria that could become guidelines that allow choosing the right direction for optimal achievement of the intended goals. Expressing concern about the greatly increasing stratification of society, economists and politicians of developed countries, based on the results of social research, concluded that such an indicator of the development of the national economy as the share of gross domestic product per capita does not reflect the real state of the level of development of society. This is largely due to the fact that when calculating gross domestic product, both indicators of private production and the public sector of the economy are taken into account. However, high profitability in the public sector does not always indicate

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a high median income of the population. It often happens that the volume of the national gross domestic product is growing, and the population really lives worse. In addition, there are enough examples in the modern world of how profits (especially from extractive industries) go abroad, and with all the wealth of the country's natural resources, people live very poorly. The lack of objective information reflecting the level of complex development of society cannot ensure the adoption of effective decisions that contribute to the sustainable development of mankind in the long term. Back in 2009, the commission, headed by the Nobel Laureate in Economics, the authoritative American economist Joseph Stiglitz, responsibly stated that it was time to shift the emphasis to measuring the level of public welfare from measurements of economic production (primarily by estimating gross domestic product (GDP)) to measure the well-being of people [11, P. 55].

During the World Economic Forum in Davos in 2017, a proposal was made on the need to use such an indicator as the Inclusive Development Index (IDI) as an alternative indicator of gross domestic product [1]. According to modern researchers, the Inclusive Development Index should be considered as a modern analogue of GDP, devoid of many disadvantages of the latter [9, P. 79].

The inclusive development index is directly related to the category of "inclusive growth", which, according to R. Hasmath, is characterized by a focus on improving the well-being of the population, reducing inequality due to the uniform distribution of wealth and benefits among the population, characteristic of the social economy [2].

Undoubtedly, this approach deserves the closest attention. It seems that the slogan "the economy is for a person, not a person for the economy" [3] is more relevant than ever before at the present stage of society's development.

Undoubtedly, the degree of satisfaction of the median consumer interests should be recognized as one of the indicators of sustainable inclusive development. This is primarily determined by the availability of socially significant goods for him. The remote sale of such goods reduces the costs for both producers of goods and consumers of these goods. The popularity of remote purchase and sale of goods is evidenced by the steady growth in the volume of online commerce [4]. In addition, distance trading makes it possible to ensure the availability of a particular product for all groups of the population, regardless of the location of the consumer, which undoubtedly should be considered as one of the factors of inclusive development and the Internet of Things [5].

The problem of proper and reliable informing the consumer about the quality and properties of the goods during its remote purchase and sale is more acute than ever before. It seems that each of us has come across either personally, or such cases have taken place in his immediate environment, when the goods purchased in the order of online trade did not meet the buyer's idea of its quality and properties. Often, It does not often only generate a feeling of deep dissatisfaction, but is also associated with additional property and temporary losses for the consumer.

7.2 Methodology

The research work is based on the general scientific method of materialistic dialectics. In addition, such methods of scientific cognition as analysis, synthesis, deduction, induction, method of system research, method of structuring material, formal legal method, and comparative legal method were used.

7.3 Results

In the modern legal environment, effective protection of consumer rights is considered as one of the most important factors in creating a competitive, transparent, and fair market environment. This fully applies to the problems of distance trading, which uses modern digital technologies that ensure the interaction of the seller and the buyer. That is why, as one of the fundamental goals of the implementation of the Strategy of the State Policy of the Russian Federation in the field of consumer protection for the period up to 2030 (approved by the decree of the Government of the Russian Federation dated August 28, 2017, No. 1837-r [6]) is to improve the level and quality of life of the population of the Russian Federation. As can be seen, the Government of the Russian Federation sees a direct link between a high degree of consumer protection and an increase in the standard of living of the population.

Forming a list of basic consumer rights, the Russian legislator emphasizes the consumer's right to receive objective information concerning the purchased goods, as well as about those persons who created such goods, about the seller, and about the performer of the consumed works and services. The norms of paragraph 1 of Article 8 of the Law of the Russian Federation dated July 2, 1992, No. 2300-1 "On Consumer Rights' Protection" [7] (hereinafter—the Law on Consumer Rights Protection) determine that the consumer has the right to demand the provision of necessary and reliable information about the manufacturer and seller of the goods, the person performing the work and the person performing the services, the working hours of these persons, and the qualities of the goods (works, services) sold by these persons.

The importance of the right to information in the legal status of the consumer is due to a number of reasons.

Firstly, this right is one of the conditions for consumer protection, since it allows the consumer to orient himself about whom to make claims against and whom to demand compensation from for damage caused as a result of the sale (delivery) of substandard and unsafe goods (work, services).

Secondly, guided by reliable and complete information about the properties of the product, the consumer can thoughtfully and consciously choose a product (work, service) that has the qualities he needs. The proper fulfillment of the obligation to provide information by the seller and the manufacturer of the goods to the consumer is designed to ensure that the consumer can competently choose the goods, works, or

services he needs. In the legal literature, the increased attention paid to the consumer's right to information about goods (works, services) is conditioned by the presumption that the consumer does not have special knowledge about the properties and characteristics of goods (works, services), which is highlighted in the norms of paragraph 4 of Article 12 of the Law on Consumer Protection [8].

Making the right choice and safe use of many modern goods requires the consumer to have the appropriate knowledge, which an ordinary citizen does not possess as a rule. As an example of such goods, technically complex goods, computer equipment and software, household chemicals, and other similar goods can be cited. A similar statement is true for some works and services, for example, banking and insurance services, and paid medical services. Citizens who do not have the necessary and reliable information about the goods, works, or services consumed often attract the attention of fraudsters selling expensive goods that either do not meet the stated characteristics, or such goods are not really needed by the consumer (first of all, this applies to medical products, biologically active food additives, hygiene products, and cosmetics).

Of particular importance for the proper choice by the consumer of those goods that he really needs, the right to information has a remote interaction between the seller and the buyer. The norms of Article 26.1 of the Law on Consumer Protection recognize the possibility of concluding a retail sale agreement in the absence of direct familiarization of the consumer with the product (or a sample of such a product) at the conclusion of the contract. Interacting with the seller in the framework of distance trading, the consumer chooses the product based on familiarization with the description of the product offered by the seller. The description of the product, its image, and photos are most often placed in catalogs, brochures, booklets, on the websites of sellers or manufacturers. It is obvious that the consumer in this situation largely depends on the reliability and completeness of the information provided by the seller.

Thirdly, the consumer's right to receive reliable information about the product, its manufacturer, and seller is also important because it ensures the proper exercise of another consumer right—the right to the safety of goods, works, and services. It seems that this is why the provisions formulated in paragraph 3 of Article 12 of the Law on Consumer Rights Protection grant the consumer the right to demand full compensation for the damage caused to his life, health, and property, if the infliction of such damage is causally related to the failure of the seller and the manufacturer of the goods to fulfill the obligation to provide the consumer with complete and reliable information about the goods being sold or work or service.

The construction of “informational” legal relations arising between entrepreneurs and consumers in remote trading assumes that the consumer's rights to receive complete and reliable information about the product correspond to the obligation of the seller of the goods (manufacturer, contractor) to provide this information. In this regard, the Law on Consumer Protection establishes a number of requirements that determine the specifics of the performance of such a duty.

As already noted, in accordance with the rules of Article 8 of the Law on Consumer Protection, the consumer has the right to demand the provision of necessary and

reliable information about the manufacturer of the goods and the seller of such goods, about the mode of its operation and about the goods being sold (works, services). The Law on Consumer Protection establishes a number of requirements for the information provided to the consumer. Such information must be reliable, necessary, timely, and accessible.

Information that contains data that exactly corresponds to the real properties and qualities of the product (work, service) is recognized as reliable. Thus, reliable information should not contain errors, distortions, and deliberately false information. According to the antimonopoly authorities, the unreliability of the translation of information about the product (work, service) into Russian should be regarded as the provision of inappropriate information [9].

The amount of the information about the product, which the legislator calls “necessary information”, forms a set of information sufficient to form a clear idea of the consumer properties and qualities of the goods to an ordinary citizen. A certain amount of information about the product, characterized by the term “necessary information”, helps the consumer, who does not have special knowledge about the product, to make an accurate choice of the product he needs in accordance with his preferences.

The list of the necessary minimum information about the manufacturer of the goods (the executor of the goods, the seller of the goods), which the consumer has the right to rely on, is clearly reflected in the Law on Consumer Protection. According to the instructions of the legislator, information about the seller (performer, manufacturer) should reflect:

- the name of the organization or the name of an individual entrepreneur (in accordance with the norms of Article 54 of the Civil Code of the Russian Federation [10], it is established that the name of a legal entity must necessarily include an indication of its organizational and legal form. The names of non-profit organizations, and in cases stipulated by law, the names of commercial organizations, must contain an indication of the nature of the legal entity's activities. An individual entrepreneur who is a seller of goods (a performer of works and services, a manufacturer of goods) is obliged to provide the consumer with information about the passage of the state registration procedure as an individual entrepreneur and information about which body carried out such registration);
 - the location of the seller of the goods (the manufacturer of the goods, the contractor of services and works);
 - the seller's working hours;
 - information about the license and (or) accreditation, if the entrepreneur's activity is subject to licensing and (or) state accreditation (in this case, the consumer has the right to request information about the type of activity permitted to a potential counterparty, about the license number and (or) the number of the certificate of state accreditation, about the validity period of the license and (or) the certificate of state accreditation, as well as about the body that issued the license and (or) the certificate of accreditation).

The establishment of a list of mandatory information about the product to be specified during its sale protects the consumer from an unscrupulous seller who, by hiding a part of the information about the product from the consumer, could mislead the consumer about the consumer properties of the product and its quality. The minimum amount of information about a product (work, service) is fixed in the norms of paragraph 2 of Article 10 of the Law on Consumer Protection and includes an extensive list of information components. For certain types of goods, such a list (as a rule, a wider one) is established by special legal acts.

However, it cannot be assumed that the provision of the minimum mandatory amount of information about the product, established by the legislator, will be recognized as the proper fulfillment by the seller of his duties to inform the buyer of the goods. This interpretation of the norms of Article 10 of the Law on Consumer Protection, in our opinion, unreasonably reduces the content of the information obligation of the entrepreneur to his clients. Based on a systematic interpretation of the norms of Article 8 and Article 10 of the Law on Consumer Protection, we believe that, depending on the type and nature of the goods (services, work), the entrepreneur is obliged to provide additional information necessary to ensure the correct choice of the consumer. It is necessary to agree with the statement that if the consumer needs other or additional information that is not prescribed by a regulatory legal act, then there is no reason to believe that the contractor has the right to refuse to provide such information to the consumer [11].

The requirements concerning the availability of information about a product (service, work) to the consumer follow from the provisions of paragraph 2 of Article 8 and paragraph 1 of Article 10 of the Law on Consumer Protection. In these provisions, the legislator prescribes the manufacturer of the goods and its seller to bring the appropriate information to the consumer's attention in a clear and accessible form when concluding a consumer contract by the methods adopted in the relevant areas of trade and service. As a general rule, all the information that is required must be communicated to the Russian consumer in Russian. At the discretion of the manufacturer of the goods (contractor of works and services, seller of goods), the information prescribed by law about the goods (work, service) may be brought to the consumer in the state languages of the subjects of the Russian Federation and the native languages of the peoples of the Russian Federation. The manufacturer and the seller can place the information addressed to the consumer on the packaging or label of the goods, state it in the technical documentation attached to the goods, leaflet inserts for each unit of goods, or in any other way accepted for certain types of goods.

The peculiarity of the exercise of the consumer's right to information during the remote sale of goods is that the law provides for step-by-step informing of the consumer. Prior to the conclusion of the contract, the consumer should be provided with the opportunity to get acquainted with the main consumer properties of the goods (services, works), with information about the place of manufacture of the goods, the address (location) of the seller of the goods (manufacturer of the goods, contractor of works and services) and its full brand name (name), the price and conditions of purchase of the goods, its delivery, service life, expiration date and warranty period, the procedure for payment for the goods, as well as the period during which the

offer to conclude the contract is valid. This is quite clearly stated in the norms of paragraph 2 of Article 26.1 of the Law on Consumer Protection. Subsequently (that is, at the time of delivery of the goods), the consumer must be provided in writing with information about the goods provided for in Article 10 of the Law on Consumer Protection, and information about the procedure and timing of the return of the goods provided for in Article 26.1 of the Law on Consumer Protection.

7.4 Conclusion

Distance trading allows you to reduce the seller's costs for organizing the sale of goods (there is no need to maintain a large number of warehouses, hire workers to work in trade pavilions, etc.). This extends the discretion of the seller to set the price of the goods. Reducing the price of the product ensures its availability to the public.

The use of effective technologies of remote interaction between counterparties in the purchase and sale of goods through online commerce contributes to the expansion of the buyer's capabilities both to choose the product itself and to choose the seller. This has a positive impact on the level of competition in a particular commodity market, stimulating manufacturers and sellers of goods to search for the most optimal models of interaction with buyers. We believe that achieving an optimal level of interaction between sellers (producers) of goods and consumers of such goods is one of the factors that have a positive impact on the pace of inclusive growth.

It should be remembered that the effectiveness of distance trading largely depends on the level of balance of the guarantee system and ways to protect consumer rights. Determining the content of the consumer's right to information during the remote sale of goods, the legislator must take into account the specifics of the procedure for concluding and executing a retail sale agreement, the specifics of using technologies for remote interaction of counterparties. We believe that it is necessary to establish a simplified procedure for the return of goods and compensation for losses caused to the consumer if the properties of the purchased goods do not fully correspond to the information provided about them. The need for such additional measures is due to the special significance for the consumer of information about the product during remote interaction between the seller and the buyer, since the information provided by the seller about the product is the main (and often the only) guideline for choosing the goods needed by the consumer.

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