

Violations of the Advertising Law

Published: 21.09.2020.

The Competition Council monitors the compliance of advertising with the requirements of regulatory enactments if

the specific interests of an individual market participant are not harmed, but the violation in the field of advertising causes, or may cause, substantial harm to competition as a whole.

[Substantial harm to competition](#)

Timeframe for adjudicating a case of violation

The Competition Council adopts a decision regarding the compliance of advertising with the requirements of the Advertising Law within 20 days from the receipt of a submission. This period may be extended to four months if there are justified reasons why the compliance of advertising with the requirements of the Advertising Law cannot be assessed.

Burden of proof of compliance of advertising with the requirements of the Advertising Law

The burden of proof, that the information (content) provided in an advertisement meets the requirements of the Advertising Law, is on the advertiser.

The Competition Council is entitled to demand and receive proof from an advertiser, the producer of advertising, or the distributor of advertising regarding the accuracy of the declarations (claims) issued in an advertisement and the compliance thereof with the requirement of the Advertising Law and other regulatory enactments. If the requested proof is not submitted within a specified period or is incomplete, the Competition Council is entitled to deem the declaration (claim) issued in an advertisement as inaccurate or false when taking its decision.

Types of decisions by the Competition Council

If the Competition Council establishes that an advertisement is in compliance with the requirements of the Advertising Law, a decision is adopted to terminate the investigation.

If the Competition Council establishes that an advertisement is not in compliance with the requirements of the Advertising Law, it is entitled to proceed as follows:

to propose that the advertiser, producer of advertising or distributor of advertising:

- ensures the compliance of the advertisement with the requirements of the regulatory enactments
- undertakes, in writing, to rectify the identified violation within a certain period

to adopt a decision whereby

- it instructs the advertiser to provide additional information in the advertisement, on the labelling of the goods or in

another way that is relevant from the point of view of the protection of persons or the lawful rights of economic operators or professional operators

- it demands that certain elements are excluded from the advertisement (information, visual images, sound or other special effects)
 - it prohibits the distribution of the advertisement
 - it demands withdrawal of the advertisement
 - it instructs the advertiser or the distributor of the advertisement to cease the violation, and specifies a term for the cessation of the violation.
-

Appealing a Decision by the Competition Council

A decision by the Competition Council regarding the compliance or non-compliance of advertising with the requirements of the Advertising Law may be appealed to the Administrative Regional Court within one month of the date the decision has taken effect. An appeal against a decision does not suspend the execution thereof.

Judicial competence in monitoring violations of the Advertising Law

A market participant affected by a violation of the Advertising Law may bring court action by filing a civil complaint for the violations provided for in Section 17, Paragraph two of the Advertising Law:

in cases where the violation of the Advertising Law does not, or cannot, cause substantial harm to competition(overall) and thus the examination of such a violation is not within the scope of authority of the Competition Council

in cases where the violation of the Advertising Law does, or can, cause substantial harm to competition and, in addition to establishing and preventing the violation of the Advertising Law, the party wishes to collect damages or compensation from the party causing the losses/damage

The Competition Council is not entitled to establish the fact or determine the extent of losses or harm (within the meaning of civil law) and to impose the duty to compensate the damage caused on the party violating the law. All the above is the sole responsibility of a general jurisdiction court.

<https://www.kp.gov.lv/en/violations-advertising-law>