UOKIK’S NEW POWERS - CHANGES IN THE ACT ON COMPETITION AND CONSUMER PROTECTION

* **Penalties for breaching the geo-blocking ban and access to fiscal secrets.**
* **These are the most important changes to the Act on Competition and Consumer Protection**
* **Some of the changes already came into effect on 17th September.**

**[Warsaw, 20 September 2019]** In the summer, the Sejm [amended the Act on Competition and Consumer Protection](http://prawo.sejm.gov.pl/isap.nsf/DocDetails.xsp?id=WDU20190001667). The most important changes concerning geo-blocking and access to fiscal and banking secrets came into force on 17th September. Others will take effect in January 2020.

*- The amendments concern several important issues. Firstly, they result from the need to adjust national law to the EU law after the ban on geo-blocking has entered into force. Secondly, they are to facilitate UOKiK's work – enforcing regulations, conducting proceedings and imposing penalties. Access to fiscal and banking secrets will make the Office even more effective. As a result, consumers, honest entrepreneurs and farmers will benefit* – says Marek Niechciał, President of the Office of Competition and Consumer Protection (UOKiK).

**Main changes**

1. **Geo-blocking ban**

The amendment adjusts Polish law to EU’s [regulation on unjustified geo-blocking](https://eur-lex.europa.eu/legal-content/PL/TXT/?uri=CELEX:32018R0302). It prohibits traders from discriminating against customers on grounds of nationality, place of residence or business. As a result, consumers are to have equal access to business offering irrespective of the EEA country (EU, Norway, Iceland and Liechtenstein) from which they’re shopping. The seller cannot, for example, refuse to sell goods or refuse a payment card on these grounds.

The amendment clarifies **who in Poland is responsible for enforcement of these regulations**. UOKiK is to intervene in two situations. Firstly, in business-to-consumer relations in case of infringement of collective consumer interests, e.g. when a Polish e-store automatically, without asking for permission, redirects customers from other countries to sites with product/service offering in their language different from those presented in the Polish language. If, on the other hand, an e-store from another EU country blocks Polish consumers, the Office of Competition and Consumer Protection may intervene through the [Consumer Protection Cooperation (CPC)](https://www.uokik.gov.pl/unia_europejska.php). Secondly, in entrepreneur-to-entrepreneur relations, the Office may initiate antitrust proceedings if it suspects that geo-blocking restricts competition. Both in this case and in the case of infringement of collective consumer interests UOKiK may impose financial penalties of up to 10% of the company’s previous year's turnover. In other situations, such as compensation in individual consumer cases, common courts will have jurisdiction to settle such disputes.

The legislation also provides for **assistance to consumers discriminated against by foreign stores**. It will be provided by the [ADR/ODR Contact Point](https://polubowne.uokik.gov.pl/kontakt%2C7%2Cpl.html), which operates at UOKiK, which will also continue to provide advice on amicable dispute resolution. Help with cross-border individual disputes is also offered by the [European Consumer Centre](https://konsument.gov.pl/). The centre’s support is free of charge.

1. **Access to banking and fiscal secrets**

The President of UOKiK will gain access to **fiscal secrets**. He will be able to exercise the right as part of proceedings in the scope of competition and consumer protection and unfair use of contractual advantage. This will make it easier for the President of the Office to estimate and impose penalties for infringements. Their amount depends on the company’s turnover from the previous year.

- *A problem arises when an entrepreneur does not collect correspondence from UOKiK, does not respond to our calls, does not provide data on the amount of turnover. Sometimes we have to verify submitted information, e.g. with the tax office, and often the data are covered by fiscal secrecy* - says Marek Niechciał, President of UOKiK. - The *new regulations may also be helpful in determining whether an entrepreneur is currently conducting business activity, in the process of enforcing a penalty and in proceedings concerning so-called financial pyramid schemes. In the latter case, documents obtained from tax authorities may make it possible to determine whether the financing of remuneration that a consumer may receive depends on amounts paid by successive members of the scheme* - he adds.

The amendment also extends the powers of the President of the Office to access **banking secrets**. The president had already had access to them in consumer protection, competition and state aid proceedings. After the changes - what is important for farmers – this will also apply to matters relating to unfair use of contractual advantage. An analysis of data obtained from banks will help e.g. determine whether there is a relationship of contractual advantage between a supplier of agricultural products and a processor or a shop, i.e. a significant material disproportion.

Cooperation between the Office of Competition and Consumer Protection and the Polish Financial Supervision Authority will also improve. The Office will be able to share information obtained in the course of its investigations with the Authority. This will make it possible to combat violations of the law committed by companies in the financial sector more effectively.

1. **A more flexible structure of the Office**

UOKiK’s structure will still consist of the headquarters, branch offices and laboratories. However, the President of the Office will be given more flexibility in the allocation of tasks.

The composition of the National Council of Consumer Ombudsmen, which operates at UOKiK, will change. This is an advisory body. Previously, it was composed of 9 ombudsmen - one from each of the branches. After the changes, each province is to have its own representative on the council - there will be a total of 16 of them.

**Support for consumers:**

Tel. 801 440 220 or 22 290 89 16 - Consumer Helpline
E-mail: porady@dlakonsumentow.pl
[Consumer Ombudsmen](https://uokik.gov.pl/pomoc.php) - in your city or district
Regional Consumer Centres: 22 299 60 90 - [Dlakonsumenta.pl](http://dlakonsumenta.pl/)