CONSUMER AFFAIRS & PRODUCT LIABILITY

CLIENT ALERT

JANUARY/2020

CEPAC'S RECOMMENDATION ON RECALL ANNOUNCEMENT AND SENACON'S NEW TECHNICAL NOTES

The Commission of Permanent Studies of Consumer Accidents – CEPAC, of the National Secretary of Consumer Affairs (SENACON), enacted the Recommendation No. 1 with orientations on article 4 of the new Recall Ordinance (Ordinance No. 618/2019), which disciplines the media plan for announcement of a recall procedure.

CEPAC's Recommendation No. 1:

- Recommends that suppliers, while preparing the media plan, (i) observe the desired plurality of forms for the transmission of the Notices of Risk, not recommending the use of only one location for the announcement of all forms provided for in Article 4 of the Recall Ordinance and (ii) observe the possibility that the Notice of Risk be announced directly to the consumer;
- Warns that the use of phone calls, SMS messaging or e-mail to consumers is not recommended for the Media Plan;
- Recommends that the SENACON assess the proposal of transmission of the Notice of Risk in new media forms, aiming at preventing the use of inefficient means and permitting the use of new means that are developed with new technology and advertising communication.

SENACON also issued two Technical Notes with further orientations about the recall proceedings.

Technical Note No. 4/2020 sets forth the possibility of SENACON electing the adequate means for the announcement of the recall, granting greater flexibility and even allowing the SENACON to determine the inclusion or exclusion of means of announcement of the Notice of Risk that are not efficient or effective in the concrete case. SENACON's analysis will be based on the following parameters:

PRACTICE AREA
Dispute Resolution
Consumer Affairs
& Product Liability

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For further information, please send a message to **news@veirano.com.br**

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- The traceability of the products or services;
- If the Notice of Risk is regularly issued as requested by article nº 6 of the Recall Ordinance;
- The amount of products that were distributed;
- The company's background in respect to its campaigns' regularity, amongst others.

Furthermore, more recently SENACON issued the Technical Note No. 6/2020, clarifying the interpretation of article 2nd of the Recall Ordinance, which sets forth the 24-hour-term for the supplier to communicate SENACON about the beginning of investigations regarding the possibility of it having introduced to the market products or services that may represent harm or danger to consumers. SENACON clarified that suppliers must communicate the body in 24 hours only when detected that the failure in the production process affected more than one lot of products, that is, when rejected the possibility that the situation is limited to an isolated case.

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