

Translation from Finnish

Legally binding only in Finnish and Swedish

Ministry of Justice, Finland

Act on Certain Powers of the Consumer Protection Authorities

(566/2020)

By decision of Parliament, the following is enacted:

Chapter 1

General provisions

Section 1

Single liaison office pursuant to the Consumer Protection Cooperation Regulation

The Finnish Competition and Consumer Authority acts as the single liaison office referred to in Article 5 of Regulation (EU) 2017/2394 of the European Parliament and of the Council on cooperation between national authorities responsible for the enforcement of consumer protection laws and repealing Regulation (EC) No 2006/2004 (Consumer Protection Cooperation (CPC) Regulation).

The Finnish Competition and Consumer Authority is also responsible for the exchange of information referred to in Article 37 of the CPC Regulation.

Section 2

Competent authorities pursuant to the Consumer Protection Cooperation Regulation

The Consumer Ombudsman acts as a competent authority pursuant to the CPC Regulation unless otherwise provided in subsection 3.

In addition to the Consumer Ombudsman, the competent authorities pursuant to the CPC Regulation are:

- 1) the Data Protection Ombudsman to the extent that it supervises compliance with Directive 2000/31/EC of the European Parliament and of the Council on certain legal aspects of information society services, in particular electronic commerce, in the Internal Market ("Directive on electronic commerce"), hereinafter the *Electronic Commerce Directive*, as

nationally implemented in the applicable act and, with regard to the supervision of compliance with Article 13 of Directive 2002/58/EC of the European Parliament and of the Council concerning the processing of personal data and the protection of privacy in the electronic communications sector (Directive on privacy and electronic communications), as nationally implemented in the applicable act;

2) the Financial Supervisory Authority (FIN-FSA) to the extent that it supervises compliance with the following directives as nationally implemented in the applicable acts:

a) Council Directive 93/13/EEC on unfair terms in consumer contracts;

b) Directive 2002/65/EC of the European Parliament and of the Council concerning the distance marketing of consumer financial services and amending Council Directive 90/619/EEC and Directives 97/7/EC and 98/27/EC;

c) Directive 2005/29/EC of the European Parliament and of the Council concerning unfair business-to-consumer commercial practices in the internal market and amending Council Directive 84/450/EEC, Directives 97/7/EC, 98/27/EC and 2002/65/EC of the European Parliament and of the Council and Regulation (EC) No 2006/2004 of the European Parliament and of the Council (Unfair Commercial Practices Directive), hereinafter the *Unfair Commercial Practices Directive*;

d) Directive 2008/48/EC of the European Parliament and of the Council on credit agreements for consumers and repealing Council Directive 87/102/EEC (Consumer Credit Directive);

e) Directive 2014/17/EU of the European Parliament and of the Council on credit agreements for consumers relating to residential immovable property and amending Directives 2008/48/EC and 2013/36/EU and Regulation (EU) No 1093/2010 (Mortgage Credit Directive);

f) Directive 2014/92/EU of the European Parliament and of the Council on the comparability of fees related to payment accounts, payment account switching and access to payment accounts with basic features;

3) the Finnish Transport and Communications Agency to the extent that it supervises compliance with the Electronic Commerce Directive and Articles 9–11 and 19–26 of Directive 2010/13/EU of the European Parliament and of the Council on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the provision of

audiovisual media services (Audiovisual Media Services Directive), hereinafter the *Audiovisual Media Services Directive*, as nationally implemented in the applicable acts, compliance with Regulation (EC) No 261/2004 of the European Parliament and of the Council establishing common rules on compensation and assistance to passengers in the event of denied boarding and of cancellation or long delay of flights, and repealing Regulation (EEC) No 295/91 (Air Passenger Rights Regulation), compliance with Regulation (EC) No 1371/2007 of the European Parliament and of the Council on rail passengers' rights and obligations (Rail Passengers' Rights and Obligations Regulation), compliance with Regulation (EU) No 1177/2010 of the European Parliament and of the Council concerning the rights of passengers when travelling by sea and inland waterway and amending Regulation (EC) No 2006/2004 (Maritime Passenger Rights Regulation) and compliance with Regulation (EU) No 181/2011 of the European Parliament and of the Council concerning the rights of passengers in bus and coach transport and amending Regulation (EC) No 2006/2004 (Bus and Coach Passenger Rights Regulation);

- 4) the Finnish Medicines Agency to the extent that it supervises compliance with Articles 86–90 and 97–100 of Directive 2001/83/EC of the European Parliament and of the Council on the Community code relating to medicinal products for human use, the Unfair Commercial Practices Directive and Articles 9–11 and 19–26 of the Audiovisual Media Services Directive as nationally implemented in the applicable acts;
- 5) the Regional State Administrative Agencies with regard to the supervision of compliance with Directive 98/6/EC of the European Parliament and of the Council on consumer protection in the indication of the prices of products offered to consumers and the Consumer Credit Directive and to the extent that they supervise compliance with the Mortgage Credit Directive as nationally implemented in the applicable acts;
- 6) the National Supervisory Authority for Welfare and Health to the extent that it supervises compliance with the Unfair Commercial Practices Directive and Articles 9–11 and 19–26 of the Audiovisual Media Services Directive as nationally implemented in the applicable acts.

The sole authority acting as the competent authority referred to in the CPC Regulation is:

- 1) the Data Protection Ombudsman with regard to the supervision of compliance with Article 8 of Regulation (EU) 2017/1128 of the European Parliament and of the Council on cross-border portability of online content services in the internal market;

- 2) the Finnish Transport and Communications Agency with regard to the supervision of compliance with Regulation (EC) No 1107/2006 of the European Parliament and of the Council, Chapter IV of the Rail Passengers' Rights and Obligations Regulation, Chapter II of the Maritime Passenger Rights Regulation and Chapter III of the Bus and Coach Passenger Rights Regulation;
- 3) the Finnish Competition and Consumer Authority to the extent that it supervises compliance with Articles 17–20 of Directive (EU) 2015/2302 of the European Parliament and of the Council on package travel and linked travel arrangements, amending Regulation (EC) No 2006/2004 and Directive 2011/83/EU of the European Parliament and of the Council and repealing Council Directive 90/314/EEC as nationally implemented in the applicable act.

Section 3

Powers in matters within the scope of application of the Consumer Protection Cooperation Regulation

The Consumer Ombudsman, the Data Protection Ombudsman, the Finnish Transport and Communications Agency and the Finnish Competition and Consumer Agency have the powers laid down in this Act in matters within the scope of application of the CPC Regulation when they are competent authorities under section 2, subsection 1 or 3.

If the powers have been divided in accordance with section 2, subsection 2 between the Consumer Ombudsman and another authority, the competent authority other than the Consumer Ombudsman also has the powers laid down in chapter 2 in matters within the scope of application of the CPC Regulation.

In addition to the provisions of this section and other legal provisions elsewhere on the powers of the authorities, the competent authorities have, in matters within the scope of application of the CPC Regulation, the powers referred to in Article 9(4)b–d and Article 9(7) of the said Regulation.

Section 4

Consumer Ombudsman's powers in matters other than supervisory matters within the scope of application of the Consumer Protection Cooperation Regulation

The Consumer Ombudsman has the powers laid down in this Act and the powers referred to in Article 9(4)b–d and Article 9(7) of the CPC Regulation also with regard to matters relating to the

supervision of compliance with legislation laid down to protect the consumer other than matters within the scope of application of the CPC Regulation.

The provisions below in this Act on regulation within the scope of application of the CPC Regulation and its infringements apply in such cases also to legislation laid down to protect the consumer other than that within the scope of application of the CPC Regulation and violations of such legislation.

Section 5

Right of the Financial Supervisory Authority (FIN-FSA) to impose penalty fees

The Financial Supervisory Authority (FIN-FSA) has the right to impose penalty fees referred to in chapter 3 in cases referred to in section 13, 15 and 16 to the extent that it supervises compliance with the provisions specified in the said sections. In such cases, this Act applies to the imposition of a penalty fee instead of chapter 4 of the Act on the Financial Supervisory Authority (878/2008). In the case of a matter other than a matter within the scope of application of the CPC Regulation, the provisions of section 43 of the Act on the Financial Supervisory Authority apply, however, in addition to this Act.

The provisions of section 73 of the Act on the Financial Supervisory Authority apply to appeal concerning a penalty fee imposed by the Financial Supervisory Authority (FIN-FSA).

Chapter 2

Certain investigation powers

Section 6

Right of access to information from traders and other private parties

Notwithstanding non-disclosure provisions, a competent authority has the right of access free of charge from a trader subject to a supervisory measure to the information necessary for examining a matter within the scope of application of the CPC Regulation. However, the competent authority has the right of access to information concerning specific categories of personal data or information equivalent to this from the perspective of the protection of privacy only if the information is essential for examining a matter within the scope of application of the CPC Regulation and the information is:

- 1) banking or payment account information;

- 2) information concerning the state of health, illness or disability of or care measures carried out on a consumer;
- 3) information equivalent to information listed above that is essential for examining infringements within the scope of application of the CPC Regulation or their details.

Notwithstanding non-disclosure provisions, a competent authority has the right of access free of charge from a private entity or person other than a trader referred to in subsection 1 to information that is essential:

- 1) for establishing whether an infringement within the scope of application of the CPC Regulation has occurred or is occurring;
- 2) for tracing financial and data flows, for ascertaining the identity of persons relating to bank and payment accounts or for establishing the details of other equivalent infringements within the scope of application of the CPC Regulation.

The competent authority may impose a conditional fine for the purpose of enforcing an obligation to provide information. Provisions on the imposition of conditional fines and the ordering of their payment are laid down in the Act on Conditional Fines (1113/1990).

No conditional fine shall be imposed on a natural person for the purpose of enforcing an obligation to provide information if there are grounds to suspect the person of a criminal offence and the information concerns the matter underlying the suspicion of the criminal offence.

Section 7

Right of access to information from authorities and others performing public duties

Notwithstanding non-disclosure provisions, a competent authority has the right of access free of charge from the authorities and others performing public duties to information essential:

- 1) for establishing whether an infringement within the scope of application of the CPC Regulation has occurred or is occurring;
- 2) for establishing the details of infringements within the scope of application of the CPC Regulation.

Notwithstanding non-disclosure provisions, a competent authority has the right of access from the police or other criminal investigation authorities only to information that is essential for compliance with section 20.

Section 8

Right of inspection

A competent authority has the right to carry out inspections of the business and storage premises, land and means of transport in the possession of a trader if an inspection is required to attend to a supervisory matter.

An inspection referred to in subsection 1 above may be carried out in premises used for residence of a permanent nature only if the actual pursuit of business activities takes place in the premises, carrying out the inspection is essential for attendance to a supervisory matter and a well-founded and specific reason exists in the case for suspecting that regulation within the scope of application of the CPC Regulation has been or is being infringed in a manner that may be sanctioned with a penalty fee referred to in this Act or the maximum punishment laid down for which is imprisonment.

Section 9

Exception to the right of access to information and the right of inspection concerning attorneys and legal counsels as well as advocates

By way of derogation from the provisions of this Act above, a competent authority does not have the right of access from an advocate or their assistant referred to in the Advocates Act (496/1958) to information, documents or records concerning the advocate's client or the right to inspect them, nor the right of access to or the right to inspect any information, documents or records received from any other person in conjunction with carrying out the duties of an attorney or a legal counsel. In addition to duties related to actual legal proceedings, the duties of an attorney or a legal counsel also include the provision of legal advice concerning a client's legal position in the criminal investigation of an offence or other pre-trial handling of a case, or concerning instituting or avoiding proceedings.

Section 10

Test purchases

A competent authority has the right to carry out test purchases if this is necessary to perform a supervisory duty within the scope of application of the CPC Regulation.

When carrying out test purchases, the competent authority has the right to use a cover identity where necessary to prevent the test purchase from being revealed. The competent authority shall notify the trader, and the controller referred to in Article 4(7) of Regulation (EU) 2016/679 of the European Parliament and of the Council on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation), of the use of a cover identity as soon as this is possible without jeopardising the purpose of the test purchase.

The competent authority has the right to withdraw from an agreement referred to in subsection 1 where the consumer would have the equivalent right under law or contractual terms.

Section 11

Executive assistance

A competent authority has the right to receive executive assistance for the performance of its duties from the police on request.

Chapter 3

Administrative sanctions

Section 12

Powers relating to online interfaces and domain names

If an infringement within the scope of application of the CPC Regulation may cause serious harm to the collective interests of consumers, a competent authority may, where necessary to stop the infringement:

- 1) order a service provider to remove content, to provide consumers with an explicit warning when they access an online interface, to disable or restrict access to an online interface or to remove an online interface;

2) order a domain name registry or a domain name registrar to delete a domain name or to register it in the name of the competent authority.

A competent authority may also issue the decision on a provisional basis whereby it remains in force until a final decision has been taken on the matter.

Prior to issuing a decision under subsection 1 or 2, the competent authority shall give the addressee of the decision as well as the trader that has infringed the provisions an opportunity to be heard, except where the hearing cannot be organised as quickly as required by the urgency of the matter.

The competent authority may impose a conditional fine for the purpose of enforcing compliance with its decisions under subsections 1 and 2. Provisions on the imposition of conditional fines and the ordering of their payment are laid down in the Act on Conditional Fines.

A decision by a competent authority referred to in subsection 1 is ineligible for judicial review by appeal. An addressee of a decision referred to in this section, and a trader that has infringed or violated provisions, may submit a decision other than a decision issued on a provisional basis to the Market Court for review within 30 days from the receipt of the decision. Otherwise the decision remains final. The decision shall be complied with unless otherwise ordered by the Market Court.

Provisions on the consideration of cases in the Market Court are laid down in the Market Court Proceedings Act (100/2013).

Section 13

Penalty fee for the violation of certain provisions of the Consumer Protection Act

A penalty fee may be imposed on a trader that intentionally or through negligence violates or fails to comply with any of the following provisions of the Consumer Protection Act (38/1978) to the detriment of consumers:

1) the requirement of the recognisability of marketing of chapter 2, section 4, the prohibition of creating confusion specified in chapter 2, section 5, the prohibition of providing false or misleading information specified in chapter 2, section 6, the prohibition of omission of relevant information specified in chapter 2, section 7, the prohibition of aggressive practices specified in chapter 2, section 9, the provision concerning unsolicited supply of consumer goods or services of chapter 2, section 10, the obligation to seek the consumer's express consent to any additional payments specified in chapter 2, section 10a, subsection 1, the obligation to indicate

in marketing any bundled offers and offering of free gifts specified in chapter 2, section 12, or the prohibition specified in chapter 2, section 14, subsection 1 of using, in communication by telephone in relation to a contract concluded by the trader concerning a consumer good or service, a service in violation of the said provision;

- 2) the provisions of chapter 6, section 11 on the provision of prior information in off-premises selling, the provisions of chapter 6, section 12 on the provision of prior information in distance selling, the provisions of chapter 6, section 13 on the confirmation of information or the provisions of chapter 6, section 17, subsections 2–4 on the return of goods and reimbursement of payments;
- 3) the obligation specified in chapter 6a, section 11, subsection 1 or 2 to communicate prior information and contractual terms on paper or on another durable medium or the obligation specified in chapter 6a, section 16, subsection 2 to reimburse payments or assets;
- 4) the prohibition specified in chapter 7, section 13, subsection 2, paragraph 3 of using premium text services or other corresponding text services, the provision of chapter 7, section 13a on the prohibition of tying practice, the obligation specified in chapter 7, section 14 to assess the consumer's creditworthiness, the obligation specified in chapter 7, section 15, subsection 1 or 2 to identify the credit applicant, the obligation specified in chapter 7, section 16 to retain the information concerning identification, the provisions of chapter 7, section 16a on granting of credit, the provisions of chapter 7, section 17 and the provisions laid down under its subsection 3 on the conclusion of a credit agreement, the provisions of chapter 7, section 17a on the maximum amount of costs of credit, the provisions of chapter 7, section 17b on costs charged for extending the repayment period, the restriction on the time of release of funds specified in chapter 7, section 19, the provisions of chapter 7, section 24 on changes in interest and payments, or the obligation specified in chapter 7, section 48 to indicate powers;
- 5) the obligation specified in chapter 7a, section 10, subsection 1 to determine the procedures and information employed when assessing creditworthiness, the obligation specified in chapter 7a, section 11 to assess the consumer's creditworthiness, the provisions of chapter 7a, section 14 on the credit offer, or the provisions of chapter 7a, section 15 or the provisions laid down under its subsection 3 on the conclusion of the credit agreement;
- 6) the obligation of chapter 9, section 25, subsection 2 to provide a security for an advance payment;

7) the ban of chapter 10, section 12 on receiving payments during the withdrawal period and the period of validity of an intermediation contract.

A penalty fee may also be imposed on a trader that intentionally or through negligence uses a contractual term or applies a practice that deviates from any of the following provisions of the Consumer Protection Act to the detriment of consumers:

- 1) the right of withdrawal from an off-premises or distance contract specified in chapter 6, section 14, subsection 1 or 2;
- 2) the right of withdrawal from a contract concerning the distance selling of a financial service specified in chapter 6a, section 12, subsection 1;
- 3) the right of withdrawal from a consumer credit agreement specified in chapter 7, section 20, subsection 1, or the right to receive a payment reimbursement from the creditor due to a seller's or service provider's breach of contract specified in chapter 7, section 39, subsection 1;
- 4) the right of withdrawal from a consumer credit agreement relating to residential property specified in chapter 7a, section 17, subsection 1;
- 5) the right of withdrawal from a contract concerning a timeshare or a long-term holiday product or from an exchange contract specified in chapter 10, section 9, subsection 1.

A penalty fee may also be imposed on a trader that intentionally or through negligence uses misleading or aggressive practices referred to in provisions laid down under chapter 2, section 15, paragraph 3 of the Consumer Protection Act.

Section 14

Penalty fee for the violation of certain provisions on passenger rights

A penalty fee may be imposed on a trader that to the detriment of consumers intentionally or through negligence violates or fails to comply with:

- 1) the provisions of section 10 of the Act on Travel Service Combinations (901/2017) and the provisions laid down under its subsection 3 on the information to be provided in a travel package contract or contract confirmation and on the confirmation of the information, section 16 of the Act on the reimbursement of payment to the passenger, or section 27 of the Act on additional accommodation costs;

- 2) its obligations specified in Article 4(3) of the Air Passenger Rights Regulation when boarding is denied to passengers against their will, its obligations under Article 5(1)a and b or Article 5(2) of the Regulation in the case of cancellation of a flight, its obligations under Article 6 of the Regulation when a flight is delayed beyond its scheduled time of departure, or its obligation specified in Article 14 to inform passengers of their rights;
- 3) the obligation specified in Article 17 of the Rail Passengers' Rights and Obligations Regulation, as applicable nationally, to pay in the case of a delay compensation of the ticket price to a passenger whose ticket is not a travel pass or a season ticket, or its assistance obligations specified in Article 18 of the Regulation in the case of a delay;
- 4) its assistance obligation specified in Article 17 of the Maritime Passenger Rights Regulation in the case of a cancellation or a delay in departure, its obligations specified in Article 18 of the Regulation concerning re-routing and reimbursement of the ticket price in the event of cancelled or delayed departures, or its obligation under Article 19 of the Regulation to pay compensation in the event of a delay in arrival to a passenger whose ticket is not a travel pass or a season ticket;
- 5) Article 23(1) of Regulation (EC) No 1008/2008 of the European Parliament and of the Council on common rules for the operation of air services in the Community on indicating the price;
- 6) the obligation specified in Article 19(2) of the Bus and Coach Passenger Rights Regulation to pay compensation to a passenger for the trader having failed to offer the choice referred to in paragraph 1 of the said Article.

Section 15

Penalty fee for the violation of certain other consumer protection provisions

A penalty fee may be imposed on a trader that to the detriment of consumers intentionally or through negligence:

- 1) violates the provisions of chapter 2, section 19, subsection 1, chapter 2, section 19c, subsection 1 or chapter 4, section 3a of the Housing Transactions Act (843/1994) on the insolvency guarantee;
- 2) violates the provision of section 200 of the Act on Electronic Communications Services (917/2014) on direct marketing to natural persons, the provision of section 201 of the Act on

marketing prohibition of telephone subscriber connections, or the provision of section 203, subsection 2 of the Act on the identification of direct marketing;

- 3) violates the prohibition of section 4, subsection 3 of the Debt Collection Act (513/1999) of collecting a receivable that has expired, violates section 4a of the Act on the debtor's right to information, continues collection in violation of section 4b of the Act regardless of denial of payment liability or in violation of section 4c after the debtor has requested suspension of the collection of a debt, violates section 5 or 5a of the Act on demand for payment in the collection of consumer debts, claims payment of a consumer debt in court in violation of section 6 of the Act, violates the prohibition of section 7, subsection 2 of the Act of the use of drafts to collect a consumer debt, violates section 10a, 10b, 10c or 10d of the Act on the maximum collection costs of consumer debts or section 11a, subsection 2 of the Act on the allocation of funds to portions of a receivable;
- 4) demands in cases referred to in section 2, subsection 2 of the Interest Act (633/1982) higher interest than laid down in section 4 of the said Act;
- 5) violates the prohibition of blocking or limiting a customer's access to online interfaces specified in Article 3(1) or (2) Regulation (EU) 2018/302 of the European Parliament and of the Council on addressing unjustified geo-blocking and other forms of discrimination based on customers' nationality, place of residence or place of establishment within the internal market and amending Regulations (EC) No 2006/2004 and (EU) 2017/2394 and Directive 2009/22/EC, the prohibition of applying different general conditions of access to goods or services specified in Article 4(1) of the Regulation, or the prohibition of applying different conditions for payment transactions specified in Article 5(1) of the Regulation.

Section 16

Penalty fee for the violation of provisions concerning the provision of information

A penalty fee may be imposed on a trader that intentionally or through negligence violates or fails to comply with any of the following provisions of the Consumer Protection Act to the detriment of consumers:

- 1) chapter 2, section 8 on the obligation to provide information when offering a specified consumer good or service or the obligation specified in chapter 2, section 8a to provide information prior to concluding a contract in transactions other than off-premises or distance selling;

- 2) the obligation specified in chapter 6, section 9 to provide information prior to concluding an off-premises or distance contract as specified by further provisions laid down under subsection 3 of the said section or the obligation specified in chapter 6, section 10 to provide the consumer with certain other information;
- 3) the obligation specified in chapter 6a, sections 5–10 to provide prior information in the distance selling of financial services or financial instruments;
- 4) the obligation specified in chapter 7, section 8 to provide information when advertising consumer credit, the obligation specified in chapter 7, section 9 and in provisions laid down under its subsection 2 to provide information preliminary to the conclusion of a credit agreement, or the obligation specified in chapter 7, section 10 and in provisions laid down under it to provide prior information in telemarketing;
- 5) the obligation specified in chapter 7a, section 5 to provide information when advertising housing credit, the obligation specified in chapter 7a, section 6 and in provisions laid down under its subsection 2 to provide information preliminary to the conclusion of a housing credit agreement, or the obligation specified in chapter 7a, section 7 or provisions laid down under it to provide prior information in telemarketing;
- 6) the obligation specified in chapter 10, section 4 to provide prior information in the manner referred to in provisions laid down under the said provision or the provisions of chapter 10, section 5 on the marketing of a timeshare or a long-term holiday product;
- 7) the provisions laid down under chapter 2, section 15, subsections 1 and 2 on information to be provided when advertising residences, on the obligation to make available for viewing a brochure, or the provisions on the information to be provided in the brochure.

A penalty fee may be imposed also on a trader that to the detriment of consumers intentionally or through negligence violates or fails to comply with:

- 1) the provisions of sections 10–15 of the Payment Services Act (290/2010) on the provision of information, the provisions of section 22 of the Act on the prior information to be provided on a contract concerning a single payment transaction, or section 25a on the prior information to be provided on a single contract concerning the initiation of a payment order;

2) the provisions of section 7 of the Act on Travel Service Combinations and the provisions laid down under it on information to be provided prior to concluding a travel package contract, or the provisions of section 36 of the Act and the provisions laid down under its subsection 2 on the information to be provided prior to the creation of a linked travel arrangement.

In the case of a violation of or failure to comply with provisions mentioned in subsection 1 or 2, a further condition to the imposition of a penalty fee is that the violation is likely to clearly reduce the consumer's capacity to make an informed purchase decision or other decision relating to a consumer good or service or impede the consumer's access to rights.

Section 17

Imposition of penalty fees on persons other than traders referred to in sections 13–16

A penalty fee may also be imposed on a person who is a member of the management of a legal person or exercises effective control over a legal person if they intentionally or through negligence have significantly contributed to an infringement or violation referred to in sections 13–16 and where there are otherwise special grounds for this. When assessing the person's contribution to the infringement or violation, the extent of the person's duties and powers shall be taken into account.

Section 18

Amount of penalty fee

The amount of a penalty fee is based on a comprehensive assessment, and its determination shall take into account:

- 1) the nature, extent, severity and duration of the infringement or violation;
- 2) the benefit derived from the infringement or violation, if this information is available;
- 3) the measures taken by the trader to mitigate or remedy the harm caused;
- 4) any previous infringements or violations of the trader relating to consumer protection provisions.

A penalty fee imposed on a trader may amount to no more than four per cent of the turnover for the year preceding the cessation of the infringement or violation concerned. If the financial statements have not yet been prepared when the penalty fee is determined or if the business

operations have only recently commenced and no financial statements are available, the turnover may be estimated on the basis of other available information.

A penalty fee imposed on a natural person referred to in section 17 above may amount to no more than four per cent of their income in accordance with their tax decision concerning the year preceding the cessation of the infringement or violation but, however, no more than EUR 40,000. If the income cannot be reliably established, the income may be estimated on the basis of other available information.

In this section above, turnover means the turnover referred to in chapter 4, section 1 of the Accounting Act (1336/1997), or equivalent turnover. In respect of a credit institution or an investment firm or another enterprise included in the same consolidation as either of these, however, turnover means the sum total of income calculated in accordance with Article 316 of Regulation (EU) No 575/2013 of the European Parliament and of the Council on prudential requirements for credit institutions and investment firms and amending Regulation (EU) No 648/2012. In respect of an insurance company, an insurance association or a special purpose vehicle referred to in chapter 2, section 18b of the Insurance Companies Act (521/2008), turnover means total premiums written.

Section 19

Decision not to impose a penalty fee

A penalty fee is not proposed for imposition nor imposed if:

- 1) the infringement or violation is minor; or
- 2) the imposition of the penalty fee must be regarded as manifestly unreasonable.

A decision may be made not to propose or impose a penalty fee if the trader has taken sufficient measures to remedy the infringement or violation immediately upon its detection and the infringement or violation is not serious or repeated.

A decision not to propose or impose a penalty fee may also be made if a conditional fine has been imposed or an application for an order to pay a conditional fine is pending with regard to the same infringement or violation.

Section 20

Relationship with criminal proceedings

No penalty fee may be imposed on anyone suspected of the same infringement or violation in criminal investigations, anyone concerning whom charges are being considered with regard to the same infringement or violation or anyone who is a defendant in a court of law in a criminal matter concerning the same infringement or violation. No penalty fee may be imposed also on anyone on whom a judgment has been rendered for the same infringement or violation in a criminal matter.

Where a matter concerning the imposition of a penalty fee on the same infringement or violation is pending or has been resolved, no charges may be brought and no judgment in a criminal matter may be rendered.

Section 21

Imposition of penalty fees

A penalty fee is imposed by the Market Court upon proposal by the Consumer Ombudsman. No penalty fee may be imposed if the Consumer Ombudsman has not submitted the proposal for its imposition to the Market Court within five years from the cessation of the infringement or violation. The matter is considered in the Market Court in compliance with the provisions of the Administrative Judicial Procedure Act (808/2019).

Provisions on the imposition of a penalty fee within the powers the Financial Supervisory Authority and appeal concerning it are laid down in section 5. No penalty fee within the powers of the Financial Supervisory Authority may be imposed if the fee has not been imposed within five years from the cessation of the infringement or violation.

The penalty fee referred to in subsections 1 and 2 above is made payable to the State. A decision on the imposition of a penalty fee may not be enforced before the decision has become final.

Section 22

Appeal against Market Court decisions

Any appeal against a Market Court decision concerning a penalty fee is made to the Supreme Administrative Court. No leave to appeal is required in the matter.

A Market Court decision may be appealed against by the trader or other person referred to in this Act on whom the Market Court has imposed a penalty fee. The Consumer Ombudsman may appeal

against a Market Court decision by which the Market Court has rejected the Consumer Ombudsman's proposal in whole or in part.

Section 23

Deferral of consideration

The court may defer the consideration of a penalty fee matter if another matter that concerns the same activity and that may affect the decision on the penalty fee matter is pending in other judicial proceedings.

Section 24

Enforcement of penalty fees

The Legal Register Centre is responsible for the enforcement of penalty fees. Provisions on the enforcement of penalty fees imposed under this Act are laid down in the Act on the Enforcement of a Fine (672/2002). The statute of limitations expires five years after the date of a final decision concerning a penalty fee.

Section 25

Entry into force

This Act enters into force on 15 July 2020.