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Submitted: 23/01/2024 - Accepted: 25/02/2024 - Published: 28/03/2024

The Evolution of the Legal Environment for Marketing in Georgia: Focus on Consumer Protection and EU Harmonization

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DOI: 10.26417/4qc90741

Abstract

This article underscores the critical role of the legal framework in facilitating effective marketing activities, addressing emergent issues, and safeguarding consumer interests in Georgia. It traces the development of Georgia's business legal framework, with particular emphasis on legislative efforts subsequent to the signing and implementation of the Association Agreement with the European Union. The paper specifically analyzes key Georgian statutes pertinent to consumer rights protection, including the Code of Food Safety and Free Circulation, the Code of Food/Animal Fodder Safety, Veterinary and Plants Protection, the Law on Advertising, and various Technical Regulations concerning food product labeling and consumer information. A notable legislative gap is identified: the 2012 suspension of the Georgian Law on Protection of Consumers' Rights, despite a prepared and published draft law, remains unaddressed. Based on this legal analysis, the author concludes that while effective legislation generally protects consumer rights in Georgia, the crucial challenge lies in enforcement. To this end, the article highlights the government's 2015 resolution on Food/Animal Fodder Safety State Control Rule, which mandates state oversight of relevant businesses to protect consumers. The ongoing process of refining Georgia's marketing-related legal foundation is also discussed.

Keywords: Marketing Law, Consumer Protection, Legal Framework, Georgia, European Union Harmonization, Food Safety, Advertising Regulations

Introduction

Generally, individuals engaged in business are well aware in necessity of taking into consideration the consumer interests but due to various causes, sometimes, they fail to do so. This is a great mistake and in many cases results in collapse of the business. Sometimes the business neglects the long-term interests as well. In addition, sometimes the competitors apply the improper competition practices. To prevent such situations, initially the individual countries and further their various associations placed business and marketing into the legal framework. By this, on one hand, they have protected the consumers and entire society from undesired impact of business and marketing and on the other – protected the companies from one another. At the same time, people engaged in business realized that viewing their business from the consumers' perspective (Charles D. Schewe, Alexander Watson Hiam,2003,p.23) would express the substance of marketing best of all and provided the shortest way to ensuring effectiveness. Thus the process of formation of the marketing legal environment for in the developed countries commenced.

Working based on the legal acts within the marketing legal system would allow people engaged in business to have clear conscience for their actions. Laws regulating business and marketing and other normative acts help the marketing professionals to conduct their activities in the right way and provide fair and timely solutions to the existing problems. Legislation regulating business and marketing is stricter in some countries (Kotler, Ph., Keller, K.,2015, p.107) while some apply relatively mild. European Union applies general laws that are mandatory for all member states. They should be taken into consideration by the other countries as well that strive to become the member states and Georgia is among them.

After decomposition of the Soviet Union and gaining independence development of the legislation regulating business and marketing have commenced in Georgia. As early as in 90s there were developed and adopted such significant laws in marketing context as Law of Georgia on Protection of Consumers Rights (1996) and Law of Georgia on Advertising (1998). Before adoption of these laws business activities and marketing environment was regulated by various legislative acts, in particular, by the resolutions of the Cabinet of Ministers of the Republic of Georgia and decrees issued by the head of the state. Lawmaking activities became especially extensive after signing of the Association Agreement with the European Union and its entry into effect. Currently, the amendments are made to the laws regulating the marketing environment, in accordance with the requirements of Association Agreement. At the same time, the new laws are developed and thus, gradually, the legal system regulating business and marketing improves and this is of great significance not only for Georgian population but for those as well, who arrive to Georgia for travel or other purposes. Though, much is to be done in this sphere. Georgian Law on Protection of the Consumers Rights has not been enacted yet. It was declared invalid in 2012. While

certain work was performed in the country in this area and the draft Law on Protection of Consumers Rights was published (Draft Law of Georgia on Protection of Consumers Rights, 2013), the process is not completed. In our opinion, this can be regarded as significant weakness of Georgian legislation regulating business and marketing. Naturally, it is not easy to adopt European standards in the sphere of consumers rights protection but even European Union have not easily dealt with this problem. Relevant European structures have spent almost half a century (45 years) to adopt general law on food (Todua L., 2013, p.1). In our opinion, Georgia will be able to develop the legal framework regulating business and marketing within the period set in accordance with Association Agreement. Results of lawmaking activities performed in the country allow us to say this.

Among the laws directly applicable to marketing activities, those, protecting the consumers and ensuring supply of safe food to them are of primary significance. We regard that of no less significance are the technical regulations that regulate the food labeling process and supply information to the consumers. Within this approach, we regard that the substantial laws and legislative acts are the following laws and technical regulations:

Law of Georgia – Code of Food Safety and Free Circulation;

Law of Georgia – Code of Food / Fodder Safety, Veterinary and Plants Protection;

Technical Regulation on Additional Requirements to Food Labeling;

Technical Regulation on Proving Information on the Food to Consumers.

In our opinion, this group includes also Georgian Law on Advertising that plays significant role in providing information to the public correctly.

This article provides analysis of the listed laws and other normative acts in the context of protection of the consumers' rights.

Research Methodology

Theoretical basis of this article was provided by the works directly dealing or related to marketing legal framework in Georgia. Among them we would like to emphasize the following:

Todua L., 2013, Food Regulations in the European Union.Key Food Law;Todua L., 2013, Food Regulations in the European Union.Food Hygiene;Todua L., 2014, Food Regulations in the European Union. Food labeling; Todua L., 2014, Food Regulations in the European Union.Food Additives; Mghebrishvili B.,2005, Business Macro Enviroment in Georgia; Mghebrishvili, B., Urotadze, E., 2016, Characteristics of Food Products Labeling in Georgia; Todua, N., Mghebrishvili, B., Urotadze, E., 2016, The main aspects of formation of legal environment of the Georgian food market; Todua, N., 2017, Influense of Food Labeling Awereness on healthy behavior of Georgian

Consumers; Todua, N., 2017, The Impact of Globalization the Attitude of Georgian Consumers to Healthy Nutrition; Todua, N., Mghebrishvili, B., 2018, Legal Fundamentals of Food Safety Provisions in Georgia.

In the process of studying of legal environment of the marketing, we relied on both, general and specific research methods. Among general methods we applied the dialectic method, analysis and synthesis. According to the dialectic method the legal framework of business and marketing was analyzed in dynamics. I.e. attention was focused on the sequence of development of the laws and normative acts and process of making amendments to them. Analysis of each law was performed article by article, in the context of the consumers' interests. Conclusions, on the basis of analysis results were made by the method of synthesis. Among the specific methods and techniques of research we have used such statistical methods as grouping and comparison. Using the methods of grouping and comparison we identified and analyzed the laws and technical regulations applicable to the marketing activities. Final conclusion was formulated based on judgment and the process of understanding of consistency of the situation evaluation.

Results of the research

The first law adopted in Georgia to regulate marketing activities was the Law of Georgia on Protection of Consumers Rights. This law specified the consumers' rights to the quality of goods, services, works, to information, compensation of damages caused by the improper products, protection of their rights at court, membership of the consumers' associations and societies (Law of Georgia on Protection of Consumers Rights,1996, Article 2). Thus, this law has established the legal, economic and social basis for protection of the consumers' rights in the territory of Georgia. Consumers' rights were provided for in details in the relevant articles of the said law. Law on Protection of the Consumers Rights was changed many times before is invalidation (2012).

New Draft Law on Protection of Consumers Rights was developed by the incentive of EU Integration Committee of the Parliament of Georgia. Goal of development was approach of Georgian legislation to EU legislation in the sphere of protection of the consumers' rights. New draft law differs to some extent from the previous law. New Chapter III – Ombudsman of the Consumers was included. No such chapter was provided in the previous law. The chapter specifies the rights of the consumer (Draft Law of Georgia on Protection of Consumers Rights 2013, Article 15, legal basis of the ombudsman's activities (ibid., Article 16), rules of his/her appointment [ibid., Article 18], rules of establishment of the ombudsman's office and its functioning (ibid., Article 20) and other issues. In Georgian society opinions about the said draft law are different. Georgian Business Association regards that "the Draft Law on Protection of the Consumers' Rights would cause damages to both, consumers and businesses" (15). It would cause significant problems, especially to small and medium businesses

and significantly complicate operation of large ones" (15).One of the representatives of this Association, "the draft law makes burden of business heavier and causes additional expenses" (16) and these expenses "will be distributed between the businesses and consumers in case of adoption of the law" (16). In our opinion, though introduction of the ombudsman's institute will need additional expenses, the consumers' opportunity to protect their interests would improve and this is significant. The fact that the different views about certain articles of draft laws were not agreed upon and it has not enacted yet, as mentioned above, is a significant weakness of Georgian legislation regulating business and marketing. Due to failure to enact the draft law dissatisfied and deceived consumers have restricted capability to protect their interests. And this is unacceptable, regarding Association Agreement between EU and Georgia. The document states that "The Parties shall cooperate in order to ensure a high level of consumer protection and to achieve compatibility between their systems of consumer protection" (Association Agreement, 2014, Article 345). How can be achieved high level of consumers protection in Georgia, if the Law on Protection of Consumers' Rights was not enacted up to present?! Though in Georgia many laws and legislative acts were developed in the sphere of protection of the consumers' rights and taking their interests into consideration, in accordance with the Association Agreement, they cannot substitute the opportunities that the consumers can get for protection of their rights by entry of the Law on Consumers Rights into force.

Georgian Law on Advertising has to play certain role in protection of the consumers' rights. The law adopted in 90s of the past century was significantly changed by the laws adopted from time to time, new articles were added and many articles were removed from it. Some provisions of Georgian Law on Advertising directly protect the consumers' interests, their health and welfare, their safety. In this respect, the mentioned law states that "the advertising shall not provoke the public to violence, aggression and chaos, it shall not stimulate dangerous actions that can harm human health or safety (Georgian Law on Advertising, 1998, Article 4, Section 11). Georgian Law on advertising provides for protection of the consumers interests in advertising of any type of goods. The law contains separate provisions for advertising of some goods of specific nature, such as: alcohol beverages (ibid. Article 8), tobacco products (ibid. Article 8^2), pharmaceutical products (ibid. Article 9), artificial food for infants (ibid. Article 9^2), weapons (ibid. Article 10). Relevant sections of the mentioned articles detail the ways of prevention of undesirable influence of advertising and protection of their interests.

The issues of protection of human interests are generally provided in the Law of Georgia – Code of Product Safety and Free Circulation. The document emphasizes that its goal is to ensure "a) Protection of human life, health, property and environment; b) placing at market the safe products..." (Law of Georgia – Code of Product Safety and Free Circulation, 2012, Article 1). Hence, the Code allows sale at market of only those

products that are safe. "The products that do not contain any risk or contain minimal risk regarded as acceptable with respect of human health and safety in case of their use according to their intended purpose, reasonably and with due regard of shelf life" can be regarded as such products (ibid., Article 4, Section 2). For the purpose of protection of the consumers rights the Code provides for responsibility of the manufacturers and distributors for placing of the flawed products at market. The Code focuses also in the issue of providing information to the consumers. The document states that "the manufacturer/distributor shall provide to the consumers necessary, true and complete information" (ibid., Article 12, Section 1). Naturally, this would allow the consumers making correct choice in the process of product procurement.

Code of Products Safety and Free Circulation, in general context, is focused on the issue of products labeling that is detailed in the technical regulation developed for this purpose.

Law of Georgia – Code of Product Safety and Free Circulation is subject to permanent refining, to duly regard economic and political changes in the country. Six amendments were made only in 2018. These amendments dealt with labor safety norms, operation of the authority supervising construction activities, the rules of imposing fines for non-compliance with the construction norms in the zone of special construction regime (Georgian Law on Amendments to the Process of Product Safety and Free Circulation, Article 1). It is also significant that by enactment of this law several laws were invalidated (Law of Georgia on Standardization", Law of Georgia on Technical Danger Control etc.) and this evidences readiness of the country's legislative authority to permanently refine the existing laws and other normative acts (Law of Georgia –Food Products/Animal Feed Safety, Veterinary and Plants Protection Code, 2012, Article 104).

Law of Georgia –Food Products/Animal Feed Safety, Veterinary and Plants Protection Code plays special role in protection of the consumers' interests. This law is the successor of several laws. Among the laws invalidated by its enactment we should primarily mention Georgian Law of 27 December 2005 on Food Safety and Quality and Law of Georgia of 14 June 1995 on Veterinary (Law of Georgia –Food Products/Animal Feed Safety, Veterinary and Plants Protection Code, 2012, Article 76]. Since 2012, many changes were made to the mentioned law. This, primarily, was caused by necessity of regarding the requirements of European Commission. Most changes were made to the given law upon signature and effectiveness of the Association Agreement between EU and Georgia. Though, this process continued further. From the initial version of the law some articles (e.g. articles 14, 15, 16, 28, 29 etc.) and even entire chapters were removed. Many articles entered into force since 2018 and some shall enter into force in 2020. These deal with the business operator's obligations in the sphere of veterinary (ibid., Article 18^1, Section 1,

Subsection "e") and situation control in this respect by the National Food Agency (ibid., Article 22, Section "b", Subsection "c"), in addition, the rules of sanctioning of the violators for non-compliance with the requirements (ibid., Article 66, Section 5). Naturally, care about the animals' welfare indirectly serves to improvement of the human welfare.

Law of Georgia – Code of Food/Fodder Safety, Veterinary and Plants Protection is significant not only for local consumers but also for the people visiting Georgia temporarily, to perform their job duties, to travel or for other purposes. This law provides them the opportunity of consuming locally produced safe food. This would positively impact the country's image. But currently, the basket of goods of both, population of Georgia and tourists is not favorable for the country. In it no more than 20 percent is manufactured in Georgia and the remained 80 per cent is imported (Papava V., 2008). In such situation, scopes of application of the Law of Georgia –Food Products/Animal Feed Safety, Veterinary and Plants Protection Code are limited. It is necessary to increase the quantity of products manufactured domestically at market and this is impossible without development of agriculture and domestic production.

Law of Georgia –Food Products/Animal Feed Safety, Veterinary and Plants Protection Code states its purpose from the outset. The Code states that its "purpose is protection of human life and health, consumers' interests, animal health and welfare, plant health..." (Law of Georgia –Food Products/Animal Feed Safety, Veterinary and Plants Protection Code, 2012, Article 1, Section 1). To achieve this goal t is necessary to create effective state control system (ibid., Article 1, Section 1).

Though Law of Georgia –Food Products/Animal Feed Safety, Veterinary and Plants Protection Code is entirely devoted to protection of consumers' interests and each of its provisions serves to the consumers' protection, the principle of protection of the consumers' interests is provided in it as separate article (ibid., Article 10^1). This article emphasizes the issue of providing information to the consumers. In particular, it states that "the consumer shall be provided with the necessary true complete information about the food products/animal feed, animals, plants, animal and vegetable products, veterinary preparations, pesticides that would allow making correct choice (ibid., Article 10^1 Section 1). The same Section emphasizes that "... the consumer shall be protected from the attempts of deception and misleading" (ibid., Article 10^2 Section 2). To prevent this, according to the Code, "it is prohibited to label, advertise or present (including pre-packaging, packaging, placement) of the food products/animal feed is such a manner that can mislead the consumer ..." (ibid., Article 10^1 Section 3) and impel him/her to make incorrect choice.

Chapter three of the said law provide detailed requirements to be taken into consideration in determination of the food safety (ibid., Article 11,Section 4). The law provides in the separate articles the requirements to animal feed safety (ibid., Article

12), veterinary requirements (ibid., Article 12[1]) and requirements to the plants protection (ibid., Article 13).

Though Law of Georgia –Food Products/Animal Feed Safety, Veterinary and Plants Protection Code, in general context, emphasizes the issues of traceability (ibid., Article 17) and labeling (ibid., Article 18). These issues are stated in details in the technical regulations approved by the government of Georgia.

Technical Regulation on Additional Requirements to Food Labeling was developed and approved in accordance with Food Safety and Free Circulation Code. Its approval invalidated the Order of the Minister of Agriculture of Georgia of 11 December 2009 on Approval of the Additional Requirements to Food Labeling. The Technical Regulation is the successor of the mentioned order and mostly relies on it. It states that "... the regulation is intended for protection of the consumers' economic interests" (Technical Regulation on Additional Requirements to Food Labeling, 2013, Article 1). The requirements stated in the relevant articles of the Technical Regulation to: food labeling (ibid., Article 3), information provided on the label (ibid., Article 4), specifying nutritional value (ibid., Article 6) help the consumers to make correct choice and protect his/her economic and not only economic interests. Placing of the requirements to food labeling into the legal framework allows the consumer to legally protect his/her interests in case of their violation.

Technical Regulation on Providing Information on Food to the Consumer can play significant role in improvement of the consumers' awareness in food products and protection of their interests. Technical Regulation was approved by the Resolution #301 of 2016 of the government of Georgia though it entered into force only in 2018. Technical Regulation was prepared and approved in accordance with the Code of Food Safety and Free Circulation. According to the technical regulation the information shall be provided to the consumers so that they could protect their interests. Consumers should know what kind of products they buy, what is their composition, properties, shelf life, safety term and risks associated with its consumption (Technical Regulation on Providing Product Information to the Consumers, 2016, Article 4) etc. Such information would allow the consumers making conscious choice. Though, conscious choice does not always mean that it is a correct one that can be made only in case of availability of fair information. With respect of providing fair information, the mentioned technical regulation requires that the "information about food shall not be misleading" (ibid., Article 6, Section 2). I shall be "... accurate, clear and easily understandable for the consumer". In addition, the information shall not contain any hint on healing of any disease or medicinal qualities of the food products, with the exclusion of the information about natural mineral waters and food products for special purposes (ibid., Article 6, Section 3).

Regulation on Additional Requirements to Food Labeling explains also the obligations and responsibilities of business operator with respect of information (Technical

Regulation on Additional Requirements to Food Labeling, 2013, Article 7). It provides the list of data that shall be included into the information about food (ibid., Article 8), rules of information availability and placement (ibid., Article 11) etc. It could be said that the technical regulations on Additional Requirements to Food Labeling and on Providing Food Information to the Consumers supplement and strengthen one another. If their requirements are complied with, the business will be able to achieve satisfaction of the consumers and the satisfied consumers, whether nationals or people from the other countries visiting Georgia for various purposes, by purchasing the products, will contribute to effective business thus and making the country's economy healthier.

Conclusion

After decomposition of the Soviet Union, when Georgia has gained independence, to create legal framework for business and marketing environment, significant works were performed. In 90s the government commenced work in this area and this work is still in progress. This process became especially extensive after signature and effectiveness of the Association Agreement between EU and Georgia. In the European Union many legal acts regulate the marketing environment and, naturally, the respective normative acts were not developed and amended instantly, the work continues up to present. Naturally, one article cannot discuss all laws and legal acts applicable to marketing legal environment. This article is focused on the main laws and normative acts that directly impact the consumers' interests, ensure manufacturing and sale of the products corresponding to their requirements, as well as the consumers' informing about these products.

Study of the process of formation of the marketing legal environment showed that the laws and other normative acts adopted in Georgia in this sphere gradually improve and allow better consideration of the consumers interests. In addition, putting of the marketing legal environment into order would contribute to protection of the interests of both, local population and those who visit Georgia to work, view the country and for the other purposes. This is significant to create positive image of Georgia at international level and this, in turn, would contribute to increase of the tourists' flows and further development of the country's economy.

Irrespective of work performed in Georgia for improvement of the legal environment of marketing, in our opinion there is much to be done, it is necessary to enact the law on protection of the consumers' rights that would facilitate protection of their rights by the consumers. It is necessary also that more attention should be paid to control of compliance with the adopted laws and other legal acts. All, the businessmen and consumers should understand that by complying with the laws and other normative acts intended for regulation of the marketing legal environment they would contribute to formation of Georgia as a rule-of-law state and improvement of its prestige at national and international levels.

References

[1] Charles D. Schewe, Alexander Waston Hiam.(2001). The Portable MBA in Marketing, second edition. Translation from English into Russian. Scientific editors: Shamgunov A., Kunitsin R., editor: Suvorov P., Alpina Publisher, 2003, p. 23
[2] Kotler, PH., Keller, K. (2012). Marketing Management, 14th edition. Translation from English into Georgian, scientific editor: Nugzar Todua, editors: Prof. Charita Jashi, Associated Professor Babulia Mghebrishvili, Tbilisi State University Publishing House, 2015, p.107.
[3] Draft Law of Georgia on Protection of Consumers Rights (2013). https://info.parliament.ge/file/1/BillReviewContent/113040
[4] Todua L. (2013). Food Regulations in the European Union.Key Food Law, Center of Strategic Researches and Development of Georgia, Tbilisi.
[5] http://momxmarebeli.ge/images/file_246141.pdf
[6] Todua L. (2013). Food Regulations in the European Union. Food Hygiene.CSRDG, Tbilisi.
[7] http://www.momxmarebeli.ge/images/file_336458.pdf
[8] Todua L. (2014). Food Regulations in the European Union. Food labeling. Tbilisi http://momxmarebeli.ge/images/file_409388.pdf
[9] Todua L. (2014). Food Regulations in the European Union.Food Additives.CSRDG, Tbilisi
[10] http://www.momxmarebeli.ge/images/file_677746.pdf
[11] Mghebrishvili B.,(2005).Business Macro Enviroment in Georgia. Journal Sakartvelos Ekonomika, #10, pp. 39-41
[12] Mghebrishvili, B., Urotadze, E. (2016). Characteristics of Food Products Labeling in Georgia.Journal of International Economic Research. Vol. 2,#1, pp,129-133.
[13] Todua N., Mghebrishvili B., Urotadze E. (2016). The Main aspects of formation of legal environment on the Georgian food market. The International Conference: Challenges of Globalization in Economics and Business. Publishing House `UNIVERSAL, Tbilisi, pp. 250-257.
[14] Todua, N. (2017). Influense of Food Labeling Awereness on healthy behavior of Georgian Consumers; Ecoforum Journal. Vol. 6, #2.
[15] Todua, N., Jashi Ch., (2018). Influense of Social Marketing of the Behavior of Georgian Consumers Pegarding Healthy Nutrition. Bulletin of the Georgian National Academy of Sciences 12(2):183-190.
[16] Todua, N., Mghebrishvili, B. (2018). Legal Fundamentals of Food Safery Provisions in Georgia. Journal of International Academic Research. Vol. 1, #1, pp. 9-16.
[17] http://docs.wixstatic.com/ugd/7ebfb0_b85d6a141a69458aa19e0ca91dbf9bc3.pdf

[18] Georgian Law on Protection of Consumer Rights Protection (1996), Tbilisihttps://matsne.gov.ge/ka/document/view/32974?publication=12
[19] http://www.info9.ge/ekonomika/biznesi/146823
[20] https://fortuna.ge/momkhmarebelta-ombudsmenis-institutis-shemoghebas-biznes-asociacia-ewinaaghmdegeba/
[21] Association Agreement, between the European Union and the European Atomic Energy Community and their MemberStates, of the one part, and Georgia, of the other part(2014)
[22] https://matsne.gov.ge/ka/document/view/2496959
[23] Georgian Law on Advertising (1998) https://matsne.gov.ge/ka/document/view/31840?publication=27
[24] Georgian Law Product Safety and Free Moement Code (2012).
[25] https://matsne.gov.ge/ka/document/view/33340
[26] Georgian Law on Amendment of Product Safety and Free Moement Code (2018)
[27] https://matsne.gov.ge/ka/document/view/4102684?publication=0
[28] Georgian Law Food Products / Animal Feed Safety, Veterinary and Plants Protection Code (2012)
[29] Papava V., (2018). Economy of Georgia in “Tourist Trap”. http://www.gfsis.org/ge/blog/view/t54