

Complying with Brazil's Consumer Protection Code

Brazil, as the world's fifth largest country in land area and population, presents great market opportunities as the seventh largest economy in the world. Product or service suppliers can enjoy great returns on their investments in the Brazilian market, but need to understand key legal differences between their familiar home markets and the Brazilian market. This article will discuss relevant provisions under the Brazilian Consumer Protection Code (Law Number 8.078 of September 11, 1990), referred to as the CPC.

The CPC prohibits products that present unreasonable risks to the consumer's life, health and safety, as well as deceptive or coercive advertising tactics, and requires suppliers to immediately communicate to consumers any knowledge of potential harm or danger arising from the use of a product already sold. Three types of laws under the CPC that suppliers should be specifically aware are: product liability, advertising, and contract provisions and rights. By becoming familiar with these laws, a supplier should feel confident that it is operating in a manner that will avoid any pitfalls under the CPC.



The CPC defines "suppliers" as any persons or corporations who provide products or services in the marketplace. It can be either an importer or a manufacturer, or even a retailer. A "consumer" is one who acquires a product or service. A "product" under the CPC is any moveable good or real estate, and "service" is any activity that is provided to the consumer.

Suppliers must anticipate the high standards to which their products and services will be held in a foreign market. In Brazil, Article 12 of the CPC deals with defective products, requiring suppliers to provide reparations for any harm caused by defects in a product. Suppliers considering putting their products into the Brazilian market should account for this liability in their long-term plans. But the CPC is very specific when it comes to the length of time that suppliers will be responsible for repairing or replacing defective products.

The CPC requires suppliers to make replacement parts available for a specified period of time, even including a period after manufacturing or importing of the product has ceased. As part of their long-term plans, suppliers must make sure to have an adequate stock of original and authentic replacement parts available. If original and authentic replacements parts are not available and the consumer instead receives secondhand replacements without expressly authorizing it, the supplier is subject to incurring penalties that may include three months to one year in prison **and** a fine.

Without marketing, a product is unlikely to succeed in the marketplace. Suppliers, in marketing their products, should consider who the target consumer is and what advertising techniques best reach them. The CPC covers prohibitions against false advertising and omitting relevant consumer information, in addition to regulating the way suppliers convey information to consumers. It imposes significant penalties for noncompliance.

The CPC prohibits abusive advertising campaigns. Specifically, an advertisement that explores fear, superstition, disrespects environmental values or may lead a consumer to harm himself is an abusive advertisement. The penalty for noncompliance with advertising restrictions under the CPC is six months to two years of imprisonment **and** a fine. Suppliers that do not make documents that are the basis of any technical or scientific claims in advertisements available upon request are subject to up to six months imprisonment **or** a fine. Marketing in Brazil is not only about understanding the population to which a specific product appeals, but also encompasses formulating an appropriate marketing strategy in keeping with the restrictions imposed by the CPC.

In addition to addressing advertising and product requirements to keep the consumer safe, the CPC also places specific requirements on contractual provisions. While many companies use standard form contracts to expedite and maintain a uniform standard of business in their operations worldwide, it is wise for a product supplier or manufacturer to understand and comply with the stricter Brazilian legislation in order to ultimately

succeed. The following laws highlight a few of the ways that foreign suppliers might be surprised when entering the Brazilian market.

The CPC requires that service suppliers provide an itemized budget for consumers containing: the price of manpower, necessary materials and equipment, payment conditions, and beginning and end dates for the service. If a supplier, manufacturer or importer decides to use a form contract, it must pay close attention to whether it highlights those clauses that propose to limit consumers' rights for easy reference and understanding. The supplier's main focus in this section of Brazil's law should be to make all their information clear, simple, and easy for the consumer to access and understand. A seven-day grace period exists under the CPC for a consumer to desist from the contract. While the law requires a supplier to immediately return a customer's payments in the event the customer decides to get out of the contract within this period, the consumer is not required to return any goods received from the supplier.

The CPC is stricter in many ways from the consumer protection laws of many other countries, and this article has highlighted a few of the places where these differences appear to be the greatest. The basic premise is that Brazil tries to protect its consumers by shifting the burden of compliance to the foreign supplier. With thorough preparation and legal guidance from a law firm familiar with these rules and processes, foreign suppliers will encounter great success through legal compliance.

[Jeffrey Brown](#), an associate attorney in [Diaz, Reus & Targ LLP's](#) office in Miami, contributed to this article.

About the Author

Michael Diaz Jr. is founder and managing partner of [Diaz, Reus & Targ LLP](#) and an international business litigation and transactions lawyer who represents international clients on cross border investments, project finance and corporate transactions on behalf of foreign and multinational companies, multinational financial institutions, foreign governments and state-owned entities.

For the latest news and commentary on breaking cases, you can follow Mr. Diaz on Twitter [@michaeldiazjr](#), [Facebook](#), [LinkedIn](#), [JDSupra](#) or visit his blog, [International Asset Hunter](#). For his complete bio, visit [Michael Diaz Jr.'s author page](#).



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