

# SAFEGUARDS

## CONSUMER GOODS AND RETAIL

SOFTLINES

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## CHINA ENACTS CONSUMER PROTECTION LAW

According to the Chairman's Order No. 7 of the People's Republic of China, the newly revised *Law of the People's Republic of China on Protection of the Rights and Interests of the Consumers (Consumer Protection Law)* became effective on 15 March 2014. The new law supersedes the previous Consumer Protection Law enacted in 1993.

The revision of the new Consumer Protection Law was made to increase consumer protection through regulating business practices, formalising a market surveillance system as well as strengthening consumers' rights. The law sets out an array of penalty levels in case a business does not comply with the requirements under this law.

### Highlights of the Consumer Protection Law

- Outlaw any unfair and unreasonable business practices and business transaction terms
- Ban the use of misleading information regarding products/services' quality, function, use and expiry date
- If a business sells a product or service through fraudulent means, it should compensate the consumer 3 times the amount of the purchase price (previously 1 times the purchase price). Minimum compensation is CNY 500
- If a business is aware of product defects which may cause health and safety concerns, the business is required to inform the regulatory authority and the consumers. The business also should stop selling, provide warning, recall, safely treat, destroy, or stop manufacturing the products concerned. In case of a recall, the business shall bear all relevant costs paid by the consumers
- Consumers may request a refund or repair of a product if the product does not meet quality requirements
- Consumers may request to return a product within 7 days of receiving the product without any reason, if the purchase was made through the internet, television, telephone or mail order (except a selection of goods such as tailor-made or perishable products, downloaded software or digital media and delivered newspaper and magazines).

The Consumer Protection Law includes provisions for The Quality Spot-Check

Measures for Circulated Products ([Spot-Check Measures](#)) and the Settlement Measures on Consumer Complaints by the [Administration for Industry & Commerce](#) (Complaint Measures). Both of these measures became effective on 15 March 2014.

### The Quality Spot-Check Measures for Circulated Products

*The Spot-Check Measures* cover four different areas of market surveillance: General Provision, Spot-Check Procedure, Spot-Check Results, Settlement, and Legal Liability. *The Measures* strengthen the former supervision working system to the spot-check working system by implementing the new specifications in the new *Consumer Protection Law*. The spot-check framework has been formalized and the spot-check working procedure has been improved and the legal liability has been clarified. *The Spot-Check Measures* also require affiliates of SAIC to publicly publish the spot-check results in a timely manner. *The Spot-Check Measures* place legal responsibility onto brands and retailers,

The logo for SGS, consisting of the letters 'SGS' in a bold, sans-serif font, followed by a vertical line to the right and a horizontal line below, forming a partial frame.

which includes requiring retailers to accept product returns from customers as well as recalling and stop selling products that are known to pose health and safety concerns in accordance with the Consumer Protection Law.

*The Spot-Check Measures* also set forth a series of penalty levels for business if they:

- Refuse to cooperate with the legitimate work by SAIC's affiliates
- Open or damage sealed or reserved samples without prior permission
- Do not provide relevant information on the product standards in the prescribed time or provide false information to relevant authorities
- Do not implement the penalty judgment set by the authority (such as suspending the sale of the unqualified products)

### **Settlement Measures on Consumer Complaints by the Administration for Industry & Commerce**

*The Complaint Measures* cover three main areas: General Provision, Jurisdiction and Settlement Procedure. Chapter 3 of the Complaint Measures specifies the settlement procedure for consumer complaints lodged to the AIC, including the handling of complaint submissions, initiating, executing and terminating mediation. Complaint avoidance, verification, evidence-gathering procedures etc. also are regulated.

The newly enacted Complaint Measures supersede *The Temporary Settlement Measures on Consumer Complaints by the Administration for Industry & Commerce* and *The Implementation Measures on Consumer Complaints by the Administration for Industry & Commerce* which were enacted in 1996 and 1997, respectively. According to the new *Complaint Measures*, consumers can lodge a complaint to the AIC through various channels such as by mail, fax, text messages, e-mail, online complaint platform, telephone, or by visiting a local AIC office.

After receiving the complaint, the AIC is required to initiate an investigation within 7 days by contacting the complainant. *The Complaint Measures* also specify that during the mediation process, if verification or testing is needed, it can be performed by a

qualified verification or testing body if both parties agree. Any verification or testing fee should be advanced by the party who makes a claim or it can be assumed by both parties under an agreement, unless other specific laws or regulations state differently. The AIC should complete mediation within 60 days after receiving the complaint from the consumer (excluding the testing and verification period). Mediation can be terminated if an agreement cannot be reached by both parties.

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