

# Online Reviews

## I. General

According to Art. 7 (6) UCP-D the following is regulated:

“Where a trader provides access to consumer reviews of products, information about whether and how the trader ensures that the published reviews originate from consumers who have actually used or purchased the product shall be regarded as material.”

This has been implemented into Sec. 5b (3) UWG

The **purpose** of this regulation is to enable the consumer to estimate to what extent presented consumer reviews may be considered trustworthy and thereby evaluate the relevant product.

## II. Scope of application

The wording of Art. 7 (6) UCP-D as well as of Sec. 5b (3) UWG may comprise online reviews and also offline reviews. However only online reviews appear to be of practical relevance.

## III. Access to consumer reviews

Art. 7 (6) UCP-D requires that a trader provides access to consumer reviews. This means that the review must derive from a consumer. Therefore reviews written by other traders or other non-consumers do not fall into the scope of the regulation.

Also the consumer review must be made available to other consumers in order to „provide access“. Therefore consumer reviews which are only used by the trader without disclosure to other consumers, are not captured, e.g. Netflix reviews (thumbs up or down).

#### **IV. Material information**

Material information is

- whether and
- how

the trader ensures that the published reviews originate from consumers who have actually used or purchased the product.

Consequently, the trader is not obliged to ensure that the published reviews originate from those consumers. He may also just indicate, that he does not ensure these circumstances.

If such processes or procedures are in place, traders have to provide information on how the checks are made and provide clear information to consumers on how reviews are processed, for example, if all review either positive or negative, are posted or whether those reviews have been sponsored or influenced by a contractual relationship with a trader, cf. recital 47 of the Directive 2019/2161

#### **V. Complementary regulation in Annex I UCP-D**

Additionally the Annex I of UCP-D provides for two regulations. Therefore it is in all circumstances considered to be unfair:

No. 23b:

Stating that reviews of a product are submitted by consumers who have actually used or purchased the product without taking reasonable and proportionate steps to check that they originate from such consumers.

No. 23c:

Submitting or commissioning another legal or natural person to submit false consumer reviews or endorsements, or misrepresenting consumer reviews or social endorsements, in order to promote products.