



VEIRANO
ADVOGADOS

CONSUMER AFFAIRS & PRODUCT LIABILITY

CLIENT ALERT

JULY/2019

NEW ORDINANCES REGULATE RECALL PROCEDURES IN BRAZIL

On 7/2/2019, two new ordinances that regulate recall procedures in Brazil were published in the Official Journal.

[Ordinance n°618/2019](#), enacted by the Ministry of Justice and Public Security, which came into force on the day it was published, defines new procedures for products and services in general.

[Joint Ordinance n°3/2019](#), on the other hand, edited by the Ministry of Infrastructure along with the Ministry of Justice and Public Security, regulates the specific procedure for the recall of vehicles, and will come into force 90 days after the date it was published.

Ordinance n°618/2019:

Ordinance n°618/2019 changed the regulation that was previously in force for products and services in general (Ordinance n°487/2012). The main changes are:

- **Communicating the recall:** The supplier that becomes aware that they have introduced to the Brazilian market products or services that may represent harm or danger to consumers must inform the National Consumer Secretary, in a 24-hour term, about the beginning of the investigations, which will be confidential. Investigations must be concluded in 10 business days, except if the supplier demonstrates the need for an extension in their particular case. Once investigations are concluded, supplier must (i) communicate the decision of following through with the recall, or (ii) the reasons why the recall will not be necessary in that case.
- **Form in which the recall is announced:** The previous ordinance (n°487/2012) demanded that the media plan announcing the recall be published in the traditional press, on radio and on television. Ordinance n°618/2019, on the other hand, allows for announcement through digital media, other than the traditional media: the media plan must be transmitted in written, audio, and picture and sound form, allowing for transmission through the internet for such, everything as long as the announcement is also included in the company's website, and always considering the need to target the largest possible number of interested consumers.

The requirement that the announcement be published on the supplier's website must allow for the Notice of Risk to be accessible in up to 2 clicks and must remain available for 5 years.

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COORDINATION

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- Periodical reports: The periodical reports of consumers' compliance with the recall must now be presented every 4 months, not every 60 days, as determined by the previous norm.

Joint Ordinance nº 3/2019:

Joint Ordinance nº3/2019, applicable specifically to vehicles, aims at improving the effectiveness of recall procedures in the industry, approximating Brazil to international standards of consumer protection and safety, especially those defined by the OECD. The main changes are:

- System integration: The National Traffic Department (DENATRAN) will offer a service, integrated with the RENAVAN, that will allow vehicle suppliers to practice the events related to the recall procedure, including the registration, consultation, notifications to vehicle owners and registration of the termination of the recall through the system. This way, the current vehicle owners will be directly communicated of the recall, through the systems provided in partnership with the DENATRAN.

In case the current vehicle owner does not join the technological solution offered by the DENATRAN, the individual communication informing about the beginning of the recall procedure, along with the Notice of Risk, will be sent by mail at the supplier's expense.

- Inscription on the vehicle's document: In addition, the notice of recall will be inscribed on the vehicle's document in case the recall is not attended by the consumer in 1 year and will remain until the owner of the vehicle complies with the recall.

Veirano's Consumer Affairs team is available to clarify any issues or assist in this subject.

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