

Cherokee Nation Code Annotated

Title 12: Civil Procedure

Chapter 2: Unfair and Deceptive Practices

§ 24. Construction and definitions

Cite as: 12 CNCA § 24

A. This Act shall be liberally construed and applied to promote its underlying purposes, which are to protect the Cherokee Nation and persons against unfair and deceptive acts and practices, both directly and indirectly, and to provide efficient and economical procedures to secure such protection.

B. As used in this Act:

1. **"Goods"** means any tangible chattels bought or leased for use primarily for any purpose, including personal, family, medical or household purposes, including certificates or coupons exchangeable for these goods, and including goods that, at the time of the sale, directly or indirectly or subsequently, are to be so affixed to real property as to become a part of real property, whether or not they are severable from the real property;
2. **"Services"** means any work, labor, and services for a commercial or business use, including services furnished in connection with the sale or repair of goods;
3. **"Person"** means an individual, group of individuals, partnership, corporation, business entity, limited liability company, the Cherokee Nation, association, or other group, however organized, who seeks or acquires, by purchase or lease, any goods or services for any purpose;
4. **"Nation Business Entity"** means any partnership or corporate entity that is owned or controlled by the Cherokee Nation
5. **"Consumer"** means any individual or group of individuals, who is a buyer of goods or services for personal use;
6. **"Transaction"** means any delivery and acceptance of goods and services. Transactions include, but are not limited to, the sale of goods, services, drugs and medical devices to the Cherokee Nation for the use and benefit of tribal recipients, regardless of whether the manufacturer sold directly to the consumer or used a third party;
7. **"Senior Citizen"** means a person who is 65 years of age or older;
8. **"Disabled Person"** means any person who has a physical or mental impairment that substantially limits one or more major life activities;

9. **"Physical or mental impairment"** means any of the following:

a. Any physiological disorder or condition, cosmetic disfigurement, or anatomical loss substantially affecting one or more of the following body systems: neurological; musculoskeletal; special sense organs; respiratory, including speech organs; cardiovascular; reproductive; digestive; genitourinary; hemic and lymphatic; skin; or endocrine;

b. Any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities. **"Physical or mental impairment"** includes, but is not limited to, such diseases and conditions as orthopedic, visual, speech, and hearing impairment, cerebral palsy, epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart disease, diabetes, mental retardation, and emotional illness.

10. **"Major life activities"** mean functions such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working;

11. **"Sell"** includes selling, offering for sale or advertising for sale, whether directly or indirectly;

12. **"Give"** includes giving, offering to give or advertising the intent to give, directly and/or indirectly;

13. **"Article or product"** includes any article, product, commodity, thing of value, service or output of a service trade;

14. **"Vendor"** includes any person who performs work upon, renovates, alters or improves any personal property belonging to another person;

15. **"Cost"** as applied to production includes the cost of raw materials, labor, and all overhead expenses of the producer. Cost as applied to distribution means the invoice or replacement cost, whichever is lower, of the article or product to the distributor and vendor, plus the cost of doing business by the distributor and vendor and in the absence of proof of cost of doing business a markup of six (6) percent on such invoice or replacement cost shall be *prima facie* proof of such cost of doing business. Cost as applied to warranty service agreements includes the cost of parts, transporting the parts, labor, and all overhead expenses of the service agency. Discounts granted for cash payments shall not be used to reduce costs;

16. **"Supplier"** is any person engaged in the business of making a consumer product directly or indirectly available to consumers.

Historical Data

LA 16-16, eff. April 21, 2016. Amended LA 07-18, eff. May 18, 2018.