



*Session 31*

*Tort Law 3*

*Liability*

## *Defective goods and services*

The producer is liable for damages if the defective product has caused death or the destruction of an object used under ordinary consumption circumstances.

A product has a defect when it does not offer the normal security conditions one would expect given its presentation, use, and distribution.

## Defective goods and services (cont.)

The following defects may give rise to claims for damages:

1. Design defects due to a faulty conception or planning.
2. Manufacturing defects due to the improper production of an individual commodity.
3. Failure to warn, where the producer having full knowledge of a potential danger omits to inform the consumer.
4. Surveillance defects due to insufficient monitoring by the producer.
5. Development risks resulting from the lack of technical knowledge at the time of production.
6. Unknowable defects which exist in some part of the production but which are difficult to detect.

Sources:

In Switzerland:

<http://www.admin.ch/opc/fr/classified-compilation/19930205/index.html#a5>

In Canada:

<http://www.blg.com/en/NewsAndPublications/Documents/publication993EN.pdf>

## *Hotelier liability*

In Switzerland:

Hoteliers are liable for any damages of guest property (CO art 487) so long as guests notify them in time (CO art 489). However the liability is strict in that the maximum amount to be paid is Fr. 1'000.- (CO art 487). In case of valuables and money not being entrusted to the hotelier, the latter is liable if he is at fault (CO art 489). If the deposit is refused, liability is unlimited.

In Canada:

[http://www.bclaws.ca/Recon/document/ID/freeside/00\\_96206\\_01](http://www.bclaws.ca/Recon/document/ID/freeside/00_96206_01)

# Unfair Competition

## Switzerland

[http://www.wipo.int/wipolex/en/text.jsp?file\\_id=125647](http://www.wipo.int/wipolex/en/text.jsp?file_id=125647)

<http://www.seco.admin.ch/themen/00645/00653/index.html?lang=en>

## US

[http://www.law.cornell.edu/uscode/usc\\_sec\\_15\\_00000045----000-.html](http://www.law.cornell.edu/uscode/usc_sec_15_00000045----000-.html)

## Canada:

<http://www.laws.justice.gc.ca/eng/acts/C-34/index.html>

# Cartels

## Switzerland

<http://www.admin.ch/ch/e/rs/251/index.html>

## US

[http://www.ftc.gov/bc/antitrust/antitrust\\_laws.shtm](http://www.ftc.gov/bc/antitrust/antitrust_laws.shtm)

## Canada:

<http://www.canadianlawsite.ca/antitrust.htm>

# Consumer Protection

## Switzerland

[http://www.amcham.ch/members\\_interests/p\\_business\\_ch.asp?s=2&c=6](http://www.amcham.ch/members_interests/p_business_ch.asp?s=2&c=6)

## US

[http://www.usa.gov/Citizen/Topics/Consumer\\_Safety.shtml](http://www.usa.gov/Citizen/Topics/Consumer_Safety.shtml)

<http://www.ftc.gov/bcp/consumer.shtm>

## Canada

<http://www.e->

[laws.gov.on.ca/html/statutes/english/elaws\\_statutes\\_02c30\\_e.htm](http://www.e-laws.gov.on.ca/html/statutes/english/elaws_statutes_02c30_e.htm)