

Disappointing decision in court case against Samsung

The Consumentenbond (Dutch Consumers' Association) has lost the court case against Samsung regarding their update policy for smartphones. The Consumentenbond wanted to compel Samsung, via the court case, to provide updates to their telephones for two years after purchase.

The court in Den Haag was of the opinion that the Consumentenbond did not sufficiently demonstrate that there are actual security risks and that Samsung does too little to alleviate this issue. In addition, the court declared the Consumentenbond inadmissible for demanding future updates because that requirement would not take future developments sufficiently into account. Finally, the court decided that Samsung now sufficiently informs consumers about their update policy. The other issues, such as whether Samsung's conduct is non-compliant or non-conform or is an unfair trade practice, were not substantively addressed by the court.

Not good for consumers

Attorney Christiaan Alberdingk Thijm, who assisted the Consumentenbond in this case: "The court wants the Consumentenbond to prove for all Samsung devices in all situations that there are security risks when Samsung does not provide consumers with any update, while these updates are indeed already available from Google. That is unrealistic. Furthermore, it is unnecessary. Google already classifies the severity of each leak that it discovers and the corresponding possible consequences. The Consumentenbond does not have to do that any longer." One of the risks that Google indicates is the remote code execution of a telephone by hackers. Google provides a security patch to close the leak, but Samsung then specifies which models also actually receive that patch.

Bart Combée, Director of the Consumentenbond, says the result is disappointing and not good for consumers: "Samsung can hide behind a multitude of models and technical and economic considerations. But Samsung decides itself to sell so many models, no one forces them to do so. A car manufacturer must also ensure that all of its models are and remain safe and reliable. Samsung has this same obligation. With this decision, consumers remain dependent on the manufacturer's goodwill."

Lawsuit still yields results

Nevertheless, something has been achieved according to Combée: "During the legal procedure, Samsung did take steps in order to better inform consumers." There is now a banner on the home page of the Samsung website that refers to a page about their update policy and there, the manufacturer now states much more clearly which devices obtain updates and how often. Combée: "That used to be very different. Before, that information – if it was there – was hidden away on their site. Thus, we have brought some movement in the market with this case; as a result of which consumers are now, in any case, better informed. But we continue to strive for manufacturers to not only inform consumers about their update policy, but that they also provide updates for all devices for a minimum of two years after purchase. Only in this way consumers can assume that their devices remain secure and usable for a minimum period."

Further information:

- The court's verdict (in Dutch): <https://www.consumentenbond.nl/binaries/content/assets/cbhippowebsite/actie-voeren/updaten/rb-denhaag-30mei-2018.pdf>
- Everything about the campaign 'Updaten!' (in Dutch): www.consumentenbond.nl/updaten
- The summons at the start of the ground proceedings (in English): <https://www.consumentenbond.nl/binaries/content/assets/cbhippowebsite/actie-voeren/updaten/summons-consumentenbond-samsung-11-nov-2016-english-translation.pdf>