

Consumer Protection Act Manual

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1. Introduction

As consumers, we all need to know that we now have greater rights when dealing with any provider of goods or services.

Here we provide an outline of the Consumer Protection Act 68 of 2008 (CPA). We encourage you to get to know the Act in greater detail to understand how it works for you. You can get more information from the Department of Trade and Industry (www.dti.gov.za).

2. What is the Consumer Protection Act?

The Act is based on fairness and equality for all consumers. In so doing, it provides consumers with a greater level of protection against providers of goods and services. In brief, this is how the CPA does this:

- It promotes a fair, accessible and sustainable marketplace for consumer products and services.
- It lays down norms and standards to protect consumer.
- It prohibits certain unfair marketing and business practices.
- It promotes responsible consumer behaviour.
- It lays down laws relating to transactions and agreements.
- It brings into being the National Consumer Commission and National Consumer Tribunal to enforce consumer protection.

3. Who is a consumer?

Consumers are persons to whom goods or services are marketed, who have entered into transactions with suppliers, users of particular goods or recipients/beneficiaries of services.

4. The Consumer Protection Act applies to the following:

1. Every transaction occurring within the Republic of South Africa;
2. Promotion or supply of any goods and services occurring within the Republic; and
3. Goods or services that are supplied or performed, in the Republic, in terms of transactions mentioned in the Act

5. The Act is not applicable in respect of:

1. Goods or services promoted or supplied to the state;
2. Industry-wide exemption being granted to regulatory authorities;
3. Credit agreements, in terms of the National Credit Act, but not goods or services;
4. Services under [employment contracts](#);
5. Agreements giving effect to collective bargaining agreements; and
6. Agreements giving effect to bargaining agreements (Section 213 of the Labour Relations Act).

6. What does goods and services mean?

“Goods” are anything marketed for human consumption. This ranges from food to literature, music to photograph, films to games, software to data, and water to electricity. The Act does provide a comprehensive definition of the “goods”.

“Services” are also defined in the Act and refers to “any work or undertaking performed by one person for the direct or indirect benefits of another”. This includes providing of education, information, advice and banking or related financial services.

7. Consumer rights

The Act lays down nine fundamental rights for consumers.

- Right to equality in the consumer market.
- Right to privacy.
- Right to choose.
- Right to disclose information.
- Right to fair and responsible marketing.
- Right to fair and honest dealing.
- Right to fair, just and responsible terms and conditions.
- Right to fair value, good quality and safety.
- Right to hold suppliers accountable.

Let’s take a closer look at each right.

Fundamental Right No.2:

Right to equality in the consumer market and protection against discriminatory marketing practices

This means that you have the right to the following.

- Not to be unfairly discriminated against in access to goods or services:
- Suppliers cannot unfairly limit access to goods or services to a customer, or class of consumers based on any ground of discrimination;
- Unfairly discriminate by prioritizing ant consumer group over others when marketing, selling or distributing their goods and services.
- High quality goods and services
- Suppliers cannot vary the quality of their goods and services in a discriminatory manner;
- Consumers have the right to query the inferior quality of goods and services.
- Fair pricing of goods and services
- A supplier cannot unfairly charge different prices for the same goods and services to different consumer based on a recognized ground of discrimination.
- Consumers should be treated equally, irrespective of gender, race, socio-economic status or geographic location.
- Consumers have the right to take these issues to the Equality Court or the Commission, who will refer valid complaints to the Equality Court.

Fundamental Right No.2:

Right to privacy

A consumer has the right to:

- Restrict unwanted direct marketing: this includes unwanted or unsolicited correspondence, SMSs, telephone calls, letters or spam emails, and to decline participation in marketing surveys.
- Discontinue the receipt of direct marketing at any time.

The right only to be contacted during the times stipulated in the Act and regulations.

Fundamental Right No.3:

Right to choose

A consumer has the right to:

- Not to be obligated to buy additional products or services from a supplier or designated third party unless the supplier can show the economic or convenience benefit; or the goods and services are offered separately and the price is disclosed.
- Cancel or renew a fixed term agreement provided they request the cancellation in writing.
- Request pre-authorisation for repair or maintenance services.
- Cancel contracts which arose as a result of direct marketing, within the cooling off period(this is generally five business days).
- Cancel advanced reservations, bookings or orders where the supplier may request advance deposit for such booking and charge a reasonable charge for the cancellation of such advanced reservations, bookings or orders.
- Choose or examine goods, even after purchase and delivery.
- Return goods and seek redress for unsatisfactory services.
- Retain and not pay for unsolicited services, subject to certain provisions in the Act.

Fundamental Right No.4:

Right to disclose of information

You have a right to:

- Information in plain and understandable language.
- Disclosure of prices of goods and services.
- Product labeling and trade description.
- Informed if goods are reconditioned or grey.
- Be provided with sales record for each transaction setting out the information prescribed by the Act
- Disclosure by intermediaries.
- Ask for identification of deliverers, installers or other related parties.

Fundamental Right No.5:

Right to fair and responsible marketing

As a consumer you have the right to:

- Protection against bait marketing, which is now prohibited.
- Protection against negative option marketing, which is now prohibited.
- Protection against unwanted direct marketing.
- Protection in catalogue marketing.
- Protection in customer loyalty programmes.

Fundamental Right No.6:

Right to fair and honest dealings

A consumer has the right to:

- Protection against unconscionable conduct.
- Protection against false, misleading or deceptive representations.
- Protection against fraudulent schemes and offers.
- Protection against pyramid and related schemes.
- Assume that suppliers are entitled to sell goods.
- Open and honest auctioneering practices.
- Fair substitution and changes of goods.
- Protection against over-selling and over-booking.

Fundamental Right No.7:

Right to fair, just and reasonable terms and conditions

You have the right to:

- Protection against unfair, unreasonable or unjust contract terms.
- Obtain notice for certain terms and conditions
- Obtain free copies of agreements/contracts.
- Refuse prohibited transactions, agreements, terms or conditions.
- Approach the court to ensure fair and just conduct and terms and conditions.

Fundamental Right No.8:

Right to fair value, good quality and safety

A consumer has the right to:

- Demand quality service.
- Safe, good quality goods.
- Implied warranty of quality.
- Warranty on repaired goods.
- Receive warnings on the fact and nature of risks.
- Recovery and safe disposal of designated products or components.
- Products monitored for safety or recalled.
- Claim damages for injuries caused by unsafe or defective goods.

Fundamental Right No.9:

Right to accountability from suppliers

A consumer has a right to:

- Protection in lay-by agreements.
- Protection with regard to prepaid certificates, credits and vouchers, and access to prepaid services facilities. An example is that prepaid cards have to be valid for three years after issue.

8. How the CPA is being enforced?

The Act gives rise to the establishment of the National Consumer Commission, a body assigned to investigate consumer complaints, as well as the National Consumer Tribunal, the latter of which was created by the National Credit Act in September 2006, and is responsible for the adjudication of violations and transgressions of the National Credit Act and the Consumer Protection Act.

9. How do you resolve a complaint?

Consumers are encouraged to, as first point of contact, contact Governance Department on the following contacts:

Tel: 011 670 6100

Email: legal@fundi.co.za

If the complaint has not been resolved to your satisfaction then you may contact the Consumer Help Line, via

1. **the dti** Customer Contact Centre: 0861 843 384
2. **the dti** Office of Consumer Protection (OCP) : (012) 394 1436 / 1558 /1076
3. E-mail: contactus@thedti.gov.za
4. **the dti** Website: www.thedti.gov.za
5. National Consumer Tribunal (NCT): (012) 683 8140
6. E-mail: registry@thenct.org.za