

Consumer bodies need more bite to ensure full benefits of CPA

South Africa's consumer bodies need to become more active champions of consumer rights to reap the full benefits of the Consumer Protection Act, says Brandell Turner, managing director of Turner & Associates Attorneys in Cape Town.



Brandell Turner: Don't sit back and let the law do all the work for you – assert your rights.

"Right now business groups are much stronger, better organised and more vocal than consumer groups," says Turner. "That is partly why the implementation of the Act has been delayed from October 2010 to March 2011; many business concerns will be addressed in the interim. Unless there continues to be a strong lobby group on behalf of consumers, they may see some of their gains disappear."

As it stands, the CPA is a groundbreaking and in some cases radical piece of legislation. "The provisions relating to direct marketing and the cooling-off period are probably the most exciting and empowering for consumers," says Turner. "Consumers are entitled to refuse to accept direct marketing, and to block any communication that is part of a direct marketing effort. This is already in place in a small way with www.optout.co.za, but will become far more significant once the Act comes into force."

Hard luck for hard sellers

Consumers who buy anything as a result of direct marketing are now also entitled to a five-day cooling off period, during which they can cancel the transaction without providing reasons or incurring any penalties. "This will be a loss to those who hard-sell insurance products and cellphone contracts over the phone, but a boon to consumers," says Turner.

The practice of negative marketing - sending people a product or making them an offer and then charging them unless they specifically reject it - is now also outlawed. "There's even a right in the legislation for consumers to keep the goods without paying for them, or force the seller to bear the costs of returning the goods. This is obviously very controversial in the business community, but the idea is to create a real deterrent to negative marketing."

There are now also far stricter controls on the claims that can be made by advertisers, says Turner. "There are real penalties now for advertisers who make inflated claims about their products; they will have to be far more careful about the promises they make, and be able to back up their words."

Assert your rights

The slimming industry is the most notorious offender on this point, notes Turner, "but many other companies make misleading claims about the health benefits of their products. It creates huge confusion and uncertainty for consumers, which we hope will be reduced by this legislation."

Overall, says Turner, "businesses are going to have to become compliant with the law, and that should lead to improved customer service and satisfaction. But consumers shouldn't sit back and let the law do all the work for them - the more actively they assert their rights, the more real those rights will become."

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