

WANTED: CONSUMER INFORMATION - DOES THE TRADE PRACTICES ACT FIT THE BILL?



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Hierdie artikel, die tweede in 'n reeks van twee artikels oor die Wet op Handelspraktyke handel oor die Wet in verhouding tot verbruikers, en verbruikersweerstand. Die eerste artikel, 'The Trade Practices Act—What's in it for Business?' wat in die vorige uitgawe van Bedryfsleiding/Business Management gepubliseer is, het oor die Wet self gehandel en die implikasies wat dit vir die sakewêreld inhou. Die skryfster voel dat die twee artikels tesame gelees, 'n gebalanseerde siening weergee.

CONSUMERISM – a growing force in South Africa

For years in South Africa business through their trade associations and workers through their trade unions have organised themselves to protect and promote their interests. Consumers have taken much longer to do so. In spite of a slow start though "Consumerism" is gathering momentum and the "Consumer Movement" is likely to become a powerful force in the market place of the future.

Consumerism is a "by-product" of most developed economies. The underlying reason for "Consumerism" is that consumers are discontent – fed up with poor service, excessive prices, inferior products, sullen sales personnel, long queues, bad after-sales services and inadequate and misleading information.

More recently this discontent has been intensified by the economic position in the country so that now the crux of the problem is really that consumers are finding it more and more difficult to satisfy their expectations and maintain a pleasing standard of living. Among all population groups, life style expectations have risen and consumers have become more demanding and sophisticated while inflation has led to a budget squeeze making it exceedingly important for them to be more competent and less vulnerable.

The main object of the so-called "Consumer Movement" is consumer protection. Protection against clear-cut abuses; unethical practices – the so-called "grey areas" and sloppy and poor business practice. It also, however, aims to educate consumers and generally improve their information flow and level of competence in the market-place.

CONSUMER RIGHTS

At the very heart of the "Consumer Movement" philosophy is the conviction that buyers, like sellers, have certain rights to which they are entitled in a free-enterprise economy. These are the right to:

- be informed with adequate, truthful and understandable information so that intelligent buying decisions can be made
- expect products to be safe and that they are protected from dangerous products or those hazardous to their health
- expect products to work/perform according to claims made
- choose as to what to buy and from whom and have free access to a variety of products and services at reasonable prices
- be protected from unnecessary monopolistic activities
- be assured of a voice in matters dealt with by Government bodies when policies are formulated affecting their interest
- be heard by manufacturers and retailers when they have grievances
- be protected by laws which are enforced.

THE INFORMATION GAP

Ignorance is expensive, particularly in today's economic climate. Uninformed customers cannot be expected to behave intelligently, or maintain their standards of living. They cannot be sure they are buying the right product or that the product or service is what it claims to be. Consumers need clear information on the quality, quantity and safety of goods and their term of sale, to make wise buying

decisions. Clearly too, consumers cannot make free decisions without information. Without the facts they cannot compare the quality and prices of goods and therefore have no power to choose products which conform to their lifestyles and provide them with their money's worth.

More, however, than being given the facts, consumers should not be deceived by untruthful information. Some buyers rely on personal experience in purchasing but many use commercial information sources. Some individuals are beginning however, to question the honesty and integrity of these sources – not the concept of persuasive information so much as its content.

Consumers who start with a reasonable level of information will make better consumers, more confident and capable of satisfying their expectations. The question, however, is what information consumers should have and who should take on the responsibility of giving this information and ensuring that it is not false or misleading.

To bridge the information gap it is:

- reasonable – that consumers be given visible statements of content – facts on the quantity, longevity and ingredients, nutritional value or materials of products, basic prices, unit prices, loan rates, and are given simple language warranties and contracts
- reasonable – that consumers are provided with educational material and assistance through customer relations personnel, for advice, guidance, information and installation and application of products, and other special information when necessary
- reasonable – that consumers are given accurate information by sales personnel
- reasonable – that consumers are given advertising and packaging which is informative and truthful as well as persuasive
- unreasonable – that business have sole responsibility of keeping customers fully informed
- unreasonable – that only the position of customers be taken into account
- unreasonable – that business stop using affective suggestions and imagery in their advertising, packaging and promotional material.

The other major issue in protecting the consumer's interest is that information is needed by the consumer to judge the performance and safety of products. People are entitled to assume that their health and safety have been taken into account by the firms whom they support. Products should not be sold which are either hazardous to health or dangerous unless the buyer is warned. Risks in using products is understandable provided consumers are given the information that the risk exists and how to cope with it.

To deal with this it is:

- reasonable – that more stringent requirements for safety in products, standard testing methods, quality control, the ranking of products on a safety scale, and standards set for product specification safety performance and cleanliness is enforced
- reasonable – that customers are warned against dangers and are protected from injury or misusing products
- reasonable – that customers are protected, within a reasonable time limit, against inferior or defective new products bought
- unreasonable – that warranties given by seller are for unreasonable amounts of time
- unreasonable – that business be held responsible for misuse of products by consumers, or use contrary to directions given.

MORE INFORMATION – whose responsibility?

The most urgent need regarding "Consumerism" is adequate, truthful and understandable information. The question however, is who is responsible for seeing to it that customers get this information.

To provide information and the kind of consumer protection and education South Africans need to cope in today's economic climate requires the mobilized energies of consumer business education and government leaders. Consumer bodies, some newspapers, trade associations and other institutions have made some progress by providing educational programmes and material.

Response by business itself to "Consumerism" and pressure for more information has been varied. Many managers are making an effort to view "Consumerism" as an opportunity for closer dialogue with their customers. For some, the rise of the "Consumer Movement" has come as a shock because they believe that they have done more than a reasonable job to give their customers what they want without incurring excess costs. Other executives have tended to regard it as an irritant without really facing the issue.

As far as Government is concerned it seems the official view is hardening – that the public should be protected where necessary. The Trade Practices Bill is a clear indication that there is a basic change in thinking about the role of Government in business and consumer relations in South Africa and that if businessmen don't set acceptable codes of ethics and standards of business practice, Government will take a more active part in regulating business behaviour.

THE ACT – contribution and failure

The Act has three basic objectives:

- to prevent statements made by salesmen or in

¹ The details of the Act are discussed in an article by the author published in the Vol. 8, No. 4 edition of *Business Management* called "The Trade Practices Act – What's in it for Business?"

advertising and promotional material which are false or misleading

- to set up an "Advisory Committee" who can investigate what they consider to be unethical business practices – injurious to consumer welfare. Such practices can then be forbidden
- to re-enact the Trade Coupons Act so as to prevent consumers from purchasing items they would not normally purchase.

The Act in itself is likely to be a deterrent to unethical business practice and from this point of view it can be regarded as a step forward for the "Consumer Movement".

It fails, however, in that it has not really identified the critical areas of market failure and been tailored accordingly – it does not really come to grips with the problem of ensuring the consumer his rights and providing a really practical way of redress for individuals when and where their rights have not been upheld.

Regulating unethical business behaviour cannot make consumers more efficient shoppers – information can. The main target of the Act is against malpractice and deceptive information – the problem of adequate and understandable information, the critical problem has been ignored.

In any event, defining deceptive or misleading information is very difficult unless a very careful distinction is made between undue exaggeration which has misdirected the consumers intention and persuasive exaggeration which is acceptable. The distinction however not only needs to be made by the authorities but communicated in understandable terms to business and the consumers so that both are aware of their rights and the implications of their decisions.

While the Act does set out to make it easier for a consumer to prosecute by lodging a criminal complaint against a firm, whether or not this will work in a practical situation remains to be seen. Clearly enforcement of the law not only requires clarity in terms of each of the parties rights but the machinery to protect these rights. It also requires effective penalties for wrongdoers.

Practically speaking it seems therefore that the Trade Practices Act, conceived with the best possible intentions will provide protection for the consumer in very limited areas. As far as providing adequate and understandable information is concerned it misses the mark – leaves the problem unresolved and consumers rights unprotected.

THE FUTURE ...?

Clearly to maintain a reasonable balance of power in the market-place, the South African economy needs a strong Government with effective laws as well as a strong private sector, but the relative role that each should play is critical if "Consumerism" is to be

resolved in a way in which both business and the consumer will benefit.

Consumerism doesn't automatically need Government regulation. If, however, business doesn't respond by giving consumers the kind of information they need to be more competent in today's economic climate the chances are that they can expect more legislation of the kind and quantity which could stifle individualism and lead to unnecessary hazards for even the well intending businessman.

The alternative is that business take positive and voluntary action *now* to respond to Consumer pressures. Managers must view "Consumerism" as marketing opportunity to which they can respond profitably instead of regarding it as a threat – this way individual industries and firms will achieve a competitive advantage in the market place.

Firms will, however, have to be organisationally and managerially equipped to deal with "Consumerism", providing the information and service customers need through their advertising, packaging and consumer advisory services, educational material such as "how to use" booklets and generally a thoroughly consumer orientated approach. Commitment to this must come from top management and be transmitted right down the line.

Consumer information is a form of consumer protection. The question is not therefore whether consumer information is needed but how quickly management can respond to the demand for it from the marketplace.

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