

## **Chapter 2 – Resolving Conflict in the Marketplace**

### **Sale of Goods and Supply of Services Act 1980**

#### **Legal rights of consumers:**

##### **Goods**

Goods purchased must be of **merchantable quality**. This means that they must be of an acceptable standard in relation to the product's durability, purpose and the price paid for the good. For example; if you buy fruit that is rotten, it is not of merchantable quality.

Goods purchased must also be **fit for purpose**. This means that they must work as they were designed or intended to. For example; if you buy a rainproof jacket, it must be waterproof.

Goods must also **correspond to description** as per tag. For example; a 100% Pure New Wool Jumper must be made of pure wool. Goods must **match samples** displayed or advertised. For example; a sample of Dulux paint is light blue. Dulux is in breach of the act if the actual tin of paint is dark blue.

##### **Services**

All services must be carried out by someone with the right **qualifications**. They must also have all of the necessary **skills** in that area. The materials which they use to provide the service must also be of **merchantable quality** and be fit for purpose. For example; if a trainee hairdresser was supposed to give you blonde highlights but they turn out blue.

##### **Guarantees**

Guarantees give consumers extra protection should damage occur. It gives them greater choice as they can decide whether to contact the manufacturer to fix the problem or get the retailer to deal with issue, and offer a form of redress. If the person providing the guarantee does not agree to offer a form of redress within the stated time period, they are in breach of the act.

##### **Retailer must solve consumer complaints**

If a consumer returns an item to a shop, they cannot be told to contact the manufacturer. The contract is with the retailer. A retailer is in breach of the act if they do this.

##### **Shop Signs**

Signs cannot give the impression that consumers have no rights. Therefore, the following must appear on all shop signs: "This does not affect your statutory rights." This statement means that consumers will be offered a form of redress if the product/service is faulty.

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### **Inertia selling**

This means sending goods in the post that were not requested (unsolicited goods) It is illegal. If such goods arrive in your house you are entitled to keep them. Retailers can get around the act by giving them as a present but you can send a donation if you want.

### **Remedies available:**

**Repair** if minor, consumer can agree and still retain right to refund if repair is unsatisfactory

**Replacement** if fault is more serious

**Refund** of money if good is not as described/fit for purpose/of merchantable quality → then entitled to refund not just repair/replacement

### **Evaluation:**

I think that this law is very effective, because:

1. It gives rights to consumers.
2. It ensures that consumers can get their money back if the law is broken.
3. Consumers now have more confidence to complain and will not be fobbed off by retailers.

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### **The National Consumer Agency**

State agency that promotes consumers' awareness of their legal rights and ensures that consumer legislation is obeyed by businesses. Responsible for:

#### **1. Informs consumers of their rights**

- Publishes shopper's rights cards.
- Provides a consumer phone service.
- Has a website.

Eval: Ensures consumers make informed decisions

#### **2. Investigates breaches of consumer laws**

It has the power to enter premises and take evidence, if they find the retailer is providing misleading information or is following unfair commercial practices.

Eval: It is a Government backed organisation who can investigate businesses that break the Act

#### **3. Enforces the Consumer Protection Act 2007**

Publishes details on the Consumer Protection List.

Can issue on-the-spot fines

Can apply to the court to obtain a prohibition order.

Eval: Ensures businesses do not engage in illegal practices

#### **4. Conducts research into consumer issues**

Conducts surveys to find out:

What are the most important consumer issues?

What areas of the law need changing?

Eval: Ensures the law is up to date with changing trends and technology

#### **5. Advocate (representative) for consumers**

Promotes and protects the interests of consumers.

Advises the government of the impact of laws on consumers.

Informs the government of consumer problems

Eval: Consumer welfare is protected

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### **Consumer Protection Act 2007**

This law protects consumers from unfair business-to-consumer practices. The act bans practices that are unfair, misleading or aggressive towards consumers and are likely to impair a consumer's choice.

#### **1. Prohibits false product descriptions**

- A retailer cannot make false claims about the nature of product, its characteristics, its origin and history.
- It must do exactly what it says it does. A company saying their food is fat free when it's not.
- A business cannot change the history of second hand goods A car dealer changing the mileage on a car.

Evaluation: I think that this act is important because it ensures consumers get fair and honest information about the product they are buying. This helps them make informed decision.

#### **2. Prohibits false prices**

- Goods marked as being reduced in price must have been on sale at the higher price for at least 28 consecutive days before the sale.
- Grocery stores selling Fruit must provide weighing scales.
- If a special offer price is only available for a limited period this must be clearly stated.
- Stores that advertise a price must apply it to all of their stores unless the advert indicates it is only for a certain area.

Evaluation: I feel this act is effective as it safeguards consumers against unfair prices and will ensure their money is spent wisely.

#### **3. Prohibits false or misleading advertising**

- Certain acts are banned under this law:
  1. Making false claims about cures for illnesses.
  2. Offering free prizes when it costs money to claim these prizes.
  3. Running competitions when the top prize is not available
- A direct appeal to children to children or putting pressure on parents into buying a product is also banned. "All the cool kids in school have this! You don't want to be left out do you?"

Evaluation: I believe that this act is effective because it protects consumers from rogue traders by banning consumer scams.

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### **4. Prohibits from engaging in aggressive practices**

- A business cannot harass, coerce or pressurise a consumer into buying something they wouldn't do so otherwise.
- The law bans threatening or abusive language or behaviour by the trader, and taking advantage of a consumer's vulnerability and the consumer's judgement is impaired by this.

Evaluation: I deem this act to be effective because it ensures that all consumers are not ripped off by sharp practices, and that consumers are not misled or fooled.

### **5. Enforces the Act**

- The National Consumer Agency was established to ensure this act is enforced.
- The NCA ensures that consumers are aware of their rights and that businesses who are in breach of the Act are punished.

Evaluation: I feel that this act is important because if consumers are lied to by a retailer, they can complain to the National Consumer Agency and the retailer will be punished.

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### Non-Legislative Ways to Solve Conflict

1. **Talk to retailer** → know rights, bring receipt, friendly but firm, manager (formal letter of complaint if this fails)
2. **Third Party help** → National Consumer Agency, Industry trade associations, Consumers' Association of Ireland, Financial Ombudsman
3. Office of **Ombudsman** for the Public Service

**Consumers' Association of Ireland** → non-commercial organisation set up to protect and promote the interests of consumers by:

- Publishing **reports and surveys** on consumer products/services
- **Highlighting** problem areas where consumer needs and quality are being neglected
- Running a consumer **advice service** → talk to the association's solicitor for a small fee
- **Lobbying gov** for changes and improvements to consumer rights legislation

**Financial Ombudsman** → specialises in resolving consumer complaints against banks and other financial institutions such as insurance companies and credit unions – their decisions are binding on the institutions involved.

**Office of the Ombudsman (for Public Services)** → specialises in dealing with consumer complaints against State-owned organisation, including all Gov departments, the HSE and local authorities.

- No power to force its recommendation to be accepted but most are accepted to avoid bad publicity and reputation damage

**Small Claims Court**: provides an inexpensive, fast and easy way for consumers to resolve disputes without the need to employ solicitor.

**Advantages:**

1. Faster than going to District/higher court
2. Low cost – small fee and no solicitor involved

**Disadvantages:**

1. Only deals with complaints up to €2,000
2. Recommendation is not legally binding
3. If you are unhappy with agreement, you may contact a solicitor and bring a formal case to a higher court but this is costly