

CHAPTER 4

CONSUMER PROTECTION

Objective

At the end of this chapter the student should be able to:-

- (i) explain the need to protect consumers;
- (ii) list the instruments of protection as contained in the government acts legislations; and
- (iii) list the organs or government agencies charged with the enforcement of the relevant legislations aimed at protecting the consumer.

4.1 Introduction

As the nations get industrialized, production becomes concentrated in a few firms and the production process becomes more complex and technological. The complex product of modern technology coupled with sophisticated sales methods or technique and advertising have combined to weaken the position of the consumer when it comes to the question of making wise decision and choice of quality goods and services to buy. This makes the consumer a weaker partner in any centrality relationship of buying and selling. The consumer therefore deserves protection from exploitation by giant producers, service providers, distributors and profiteers and protection from fake or adulterated products.

Consumer protection is not a new thing in Nigeria. In the 1980s during the military rule there were bodies such as Rent Tribunals to protect tenants from shylock landlords; price control board to ensure that prices of essential commodities are within the reach of the citizens (consumers). During the colonial era and some years following independence there were sanitary inspectors to ensure that people live in clean surroundings.

There is the Federal Environmental Protection Agency (FEPA) which sees to it that producers or manufacturers are environmental friendly that is, to ensure that their production activities do not impact negatively on the environment.

In the banking sector there is the Nigerian Deposit Insurance Corporation (NDIC) to protect bank depositors in the event of folding up.

In this chapter, we shall discuss the protective measures that are available to the consumers. Such protections are woven in the laws of the land as represented in the various Acts of Parliament of the state and national assemblies, in the laid down powers of some government departments, and also, in the functions and activities of some voluntary organization.

Need for Consumer Protection

For citizens to be wise consumers who get value for their money, they need sufficient information about the products and services they want to buy or enjoy. The complexity of modern products and the sophisticated method of modern marketing have combined to make the consumer incapable of wise decision in matters of buying and selling, so, in the contracted relationship of buying and selling, the buyer is usually a weaker party, and this has rendered the saying *â€œcaveat emptorâ€* which means â€œlet the buyer bewareâ€, absurd, and so the buyer or consumer needs protection from exploitation, falsehood and fake products.

The underlisted are the reasons why the consumer needs protection.

- (A) Certain products such as electrical appliances (apparatus or instruments), cars, telecommunication equipment and computer machines are by their nature very complex which makes it difficult for consumers to detect defects during buying.
- (B) Modern sophisticated methods of marketing by specially trained personnel, together with the use of strong advertising appeals makes it difficult for the consumer to know the exact quality of the product or goods he is purchasing or buying.
- (C) The emergence of a few giant producers further places the consumer on a disadvantageous position in the contractual relationship of buying and selling.
- (D) It is the duty of the state to ensure that consumer (citizens) are provided with the right quality of goods and services, and so should dumping of out-dated or expired products.
- (E) There is need for the authorities to prevent exploitation of the citizens (consumers) by producers or importers of poor quality or fake products as is being done now by National Agency for Food and Drug Administration and Control (NAFDAC).

4.2 Consumer Protection as Contained in Government Acts or Legislation, i.e. Legislative Instruments

An act is a law made by a legislative body. We would refer briefly to only a few of such acts here, since this is a field for students of Commercial law.

(i) *Sale of Goods Act (1893,1958 and 1971)*

These are legislations for the conditions under which buyers and sellers must operate in the exchange of goods. The conditions are as follows:

- (a) The goods to be sold must be of marketable (saleable) quality and must be suitable for the purpose for which they are bought or purchased.
- (b) Goods sold by description and sample should conform to the description and sample and must be free from any hidden defect.
- (c) Where the buyer relies on the skill and judgement of the seller, the goods must meet the buyerâ€™s requirements.

- (d) No other party unknown to the buyer should have right to the goods, and the buyer should have a quiet possession of the goods.
- (ii) ***Food and Drugs Act (1955)***: This act enforces the following:
 - (a) Proper and good labelling of food meant for sale.
 - (b) Inscription of food composition on the labels.

The Act prohibits the sale of unfit food, and misleading descriptions as regards nutritional quality, value and nature.

- (iii) ***The Restrictive Trade Practices Act (1948 and 1956)***:
 - (a) It forbids all forms of industrial combinations that limit the actions of the sellers or producers to the disadvantage of the consumers. Most countries have this Act.
 - (b) It provides for a commission to investigate all forms of monopolistic practices.
 - (c) It provides for a special court, presided over by a High Court Judge to deal with those monopolistic practices that are outside the powers of the above mentioned commission.
- (iv) ***Weights and Measures Act (1963)***: This act ensures that:
 - (a) Certain goods are sold in prescribed quantities, e.g. milk, beer and soft drinks.
 - (b) The quantity of prepacked goods must be stated.
 - (c) Anything short of the weight or false prescriptions are punishable offences.
- (v) ***The Trade Description Act (1968)***: This is similar to weights and measures in that, it makes it an offence to give false or misleading description of or services offered for sale.
- (vi) ***The Law of Contract***: This is designed to protect the rights of parties to any agreement, for instance, innocent as well as fraudulent misrepresentations would give the injured party the right to rescind (cancel) the contract in both cases, and the right to claim damages (if necessary).
- (vii) ***Consumer Credit Act (1974)***: This is to protect the consumers and the sellers in respect of deferred and hire purchase dealings. It requires that all relevant information must be brought clearly to the notice of the prospective debtor who must be provided with a copy of the agreement.

It forbids defective contents in such contracts as well as prohibitive rates of interest.

4.3 Government Agencies that ensure Compliance with Consumer Protective Measures

There are some government departments, agencies and ministries charged with the responsibility of ensuring that consumers of goods and services are protected from cheating and exploitation by producers or providers of goods and services.

It is the duty of such consumer protection bodies to ensure that all relevant laws and legislations or regulations are complied with in any business transaction. Some of the agencies are discussed below.

(A) Rent Tribunals

These are tribunals which are setup for the main purpose of protecting the interest of tenants wherever they are likely to be cheated in any way by their landlords.

The Rent Tribunals functions can be:

- (i) Vetting agreements between landlords and tenants.
- (ii) Resolving conflicts between landlords and tenants.
- (iii) Reviewing and moderating rents chargeable by landlords whenever tenants come up with complaints against "exorbitant" rents.
- (iv) Intervening in favour of tenants who are with unreasonably short "quit" notice.

(B) Price Control Boards

This is a board that is charged with the responsibility of seeing that prices of products as stated by Government are not breached.

This was the practice in the 1960s to 1970s when government inspectors went around to see that such government prices were enforced and those who breached the price control were prosecuted.

The prices of goods like beer, etc., are under the price Control Board. But it is an uphill task to enforce price control.

As at today Price Control Boards have been abolished.

(C) Sanitary Inspectors

These are government appointed officials charged with the responsibility of enforcing sanitary conditions in the locality in which they operate.

They are under the control and administration of the local governments.

They are prominent in the early 1900 to the 1980s after which their influence was no longer effective. As from 2003 new democratic setting some State Governments have reintroduced them with a lot of emphasis as one of the vehicles of promoting environmental sanitations.

The influence of the Sanitary Inspectors waned because of their corrupt practices of taking bribes from offenders instead of charging them to courts.

(D) The Standard Organization of Nigeria (SON)

This body tests products to ensure that they meet minimum standards or specifications set for the country. Producers whose products meet the required standard are allowed to stamp “NIS” (Nigerian Industrial Standard) on their products as a mark of quality.

(E) The National Agency for Food and Drugs Administration and Control (NAFDAC)

This organization monitors the quality of drugs, bottled drinks, food, pure water etc., sold in the country aimed at protecting the consumers from buying fake and expired products. Producers or importers of the products supervised by NAFDAC are expected to register such products after which they will be given a number to be stamped on the products, before the products are introduced into the market. Offenders stand the risk of having their goods destroyed and the risk of being prosecuted.

(F) The Board of Trade

This body ensures that consumer goods and services are of the right quality. It enforces government laws and regulations aimed at protecting the consumer such as the Weights and Measure Act, the Trade Description Act and Hire-Purchase Act.

(G) The Ministry of Health

This ministry sets up minimum standards and quality for food and drugs. It educates the public on the dangers of certain products - food and beverages. It also monitors advertisements for certain food and drugs in the print and the electronic media. The ministry also prescribes minimum standards for establishing private hospitals and other private health care institutions and homes.

(H) The Ministry of Education

This ministry works to prevent the public (students, parents and guardians) from being duped by dubious individuals who operate schools or correspondence colleges that are below standard. By establishing minimum standards for education delivery it performs regulatory functions as well.

(I) Other Ministries such as Agriculture, Works & Housing and Industries, etc.

Also perform both supervisory and regulatory functions aimed at protecting the consumers by prescribing standards to ensure quality, safety and comfort.

4.3.1 Individual Initiatives that Protect the Consumer:

- (a) Producers or Manufacturers or Distributors:*** Some producers or manufacturers or major distributors or suppliers take some measures to protect the consumers from profiteers and fake products. One of such measures is the Retail Price Maintenance (RPM) whereby the manufacturer insists on his products being sold at the same price throughout the region, district, nation or country. Another measure is to monitor the channels of distribution or retail outlets to ensure that the product is not faked and that the services rendered are not below expectation, e.g., inspection of fuel distribution by major oil marketers. The Nigerian National Petroleum Corporation (NNPC) through its

Department of Petroleum Resources (DPR) inspects its products retail outlets to ensure that the public or consumers are not cheated or the product adulterated.

- (b) **Professional Bodies:** Some professional bodies such as in law, medicine, engineering and accountancy on their own monitor the activities of their members to ensure ethical standards aimed at protecting their clients (the consumers).

4.3.2 Consumers Protection Commission

There is now a Consumers Protection Commission in Nigeria which works to protect consumers by ensuring that they get value for their money and the United Nations Organization (UNO) celebrates Consumers Protection Day each year.

4.3.3 Voluntary or Independent or Non-Government Organizations (NGOs) Providing Consumer Protection

- (i) **Consumers' Association:** In most countries, there are consumers' associations of one type or the other. They are usually voluntary, and their functions include the following:
- (a) They provide information to their members on qualities of certain types of goods.
 - (b) They publish magazines in aid of consumers' choice of products. For instance, *The Which* in England gives information about all types of goods from models of vehicles to household labour-saving equipment. Results of tests conducted on some goods, vehicle etc., are published in the magazines.
 - (c) They could pass their opinions on goods or services as a body to producers or sellers alike, e.g. the Television Viewers Association could complain about any programme that is not socially acceptable.
- (ii) **Consumers' Advice Centres:** These are set up on local basis to take up consumers' complaints and problems and advice consumers, prior to big or expensive purchases.
- (iii) **Trade Association:** Some traders, even advertising companies, set up bodies that formulate a "code of conduct" among their members. Such a conduct deals with the manner of advertisement, procedures of dealing with consumers' complaints and penalties for erring members.
- Associations, like the consumers' association, are so powerful that, they could influence parliamentary bills or legislative Acts concerned with their interest by lobbying members of the Legislature.
- (iv) **Institutions:** There are producers and or suppliers association which work to improve quality of their products and thus protect the consumer.
- (v) **The Mass Media:** This is made up of the press, the television and the radio through which public opinions are expressed as regards foul practices of producers, sellers or trade unions which are against public interests.

- (vi) ***Ad hoc Pressure Groups:*** There are pressure groups without any permanent title. They simply get together as matter affecting their common interest arise.
- (vii) ***Share Holder Association and Organisation for Economic Corporate Development*** protect the rights of shareholders in Nigeria.

Summary

Consumers need to be protected from exploitation by producers, service providers, marketers etc.

The legal protections are many:- Examples are in the contents of Sales of goods Acts 1893,1958 and 1979 Food and Drugs Act 1955, Restrictive Trade Practices Acts 1948 and 1966. Some government departments are given the function of enforcing certain regulations in the interests of consumers. Examples of such are the departments of prices and income protection which regulate prices; and the National Agency for Food and Drugs Administration and Control (NAFDAC) which aims at protecting consumers from fake and expired products.

Revision Questions

A. Essay Questions

1. (a) What is consumer protection in business?
(b) Why is there need for such protection?
2. Do you think that Nigerian citizens feel the effectiveness of consumer protection against Nigeria business? Why not?
3. State 3 ministries/departments charged with consumer protection. State their individual roles.
4. Write on three of the following agencies as regards their protection services to the consumers.
 - (a) The Standard Organization of Nigeria (SON)
 - (b) The National Agency for Food and Drugs Administration and Control (NAFDAC)
 - (c) The Board of Trade
 - (d) The Ministry of Health
 - (e) The Ministry of Education
5. Explain the roles of four of these in consumer protection services.
 - (a) Share Holdersâ€™ Association
 - (b) The Mass Media
 - (c) Trade Association
 - (d) Ad hoc Pressure Groups
 - (e) Producers and Suppliers Associations

B. Objective Questions

1. One of these is not a reason why consumers need protection.
 - A. Modern sophisticated marketing methods make it difficult for consumers to know the exact quality of some goods/products.
 - B. In some electrical appliances, consumer cannot detect fault easily.
 - C. To prevent exploitation of the consumers.
 - D. To ascertain that all prices of goods are lower than the cost of production.

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2. The objective of the Sale of Goods Act is to ensure
 - A. Uniform price of goods all over the market.
 - B. Goods to be sold must be of marketable quality.
 - C. Goods should conform to description and sample.
 - D. No other party unknown to the buyer should have right to the goods.
3. Restrictive Trade Practices Act (1948 and 1956) makes for the following provisions except one
 - A. Forbids industrial combinations that limit the actions of the sellers.
 - B. For a commission to investigate all forms of monopolistic practices.
 - C. For a special high court to deal with those in monopolistic practices.
 - D. For an appeal to a state Governor in respect of fake drugs.

Use the following information to answer questions 4-6.

- A. National Agency for Food and Drugs Administration and Control
 - B. Sanitary Inspectors
 - C. Rent Tribunals
 - D. Standard Organization of Nigeria (SON)
4. The organization that monitors the quality of drugs.
 - A
 - B
 - C
 - D
 5. Government appointed officials charged with the duty of enforcing sanitary conditions in their locality.
 - A
 - B
 - C
 - D
 6. The agency that resolves conflicts between landlords and tenants.
 - A
 - B

- C
D
7. The body that tests products to ensure that they meet minimum standards.
A
B
C
D
8. Which of the laws of consumer protection fixes the rate of interest charged on loans.
A. food and Drug Act
B. Hire Purchase Laws
C. Price Control Decree
D. Usury Laws *NECO 2003*
9. What is NOT a right of the consumer?
A. A healthy environment
B. To be heard
C. To be informed
D. Set value for money
E. Save money on food and drugs
10. What is NOT a concern of the Ministry of Education?
A. Preventing the public from being duped by dubious school proprietors.
B. Establishing minimum standards of education.
C. Enforcing good minimum quality of education for teachers.
D. Setting good standard of examination questions for the examining bodies.

Project

From your experience, state all the available means through which customers'™ interests have been protected by any agencies at all - central, state, local government or any private organization, etc.