

THE HAPPY SHOPPER

CONSUMER GOODS AND SERVICES OMBUDSMAN

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REACHING THE TIPPING POINT

We thought our financial woes were a thing of the past when Minister Rob Davies signed the Consumer Goods and Services Industry Code of Conduct into law and accredited the Consumer Goods and Services Ombud as the official industry alternative dispute resolution body just over six months ago. Although thankfully a number of the businesses that had been sitting on the fence have since registered with CGSO, a worryingly large number of businesses have failed to follow suit.

This has put immense financial pressure on CGSO as it must now deal with all the complaints received by it or referred to it by the National Consumer Commission that fall within its expanded, compulsory jurisdiction, even if the businesses that the complaints are against have not paid their dues to CGSO.

We are however confident that with the assistance of Trifecta Capital, whom we appointed to manage participant registration, we will reach a tipping point by the end of the financial year.

this issue

Reaching The Tipping Point P.1

What's in it for us? P.2

Consumer Goods and Services

Supply Chain P.3

Outcomes P.4

Welcome to the Timeshare Industry

Bucking the trend in the broad consumer goods and services industry, the Vacation Ownership Association of South Africa (VOASA) announced at its recent Annual General Meeting that the CGSO would be taking over the ADR functions previously performed by VOASA.

To ensure compliance with the CGSO code, VOASA has introduced a requirement that members furnish proof of registration with the CGSO in order to continue to qualify for VOASA membership.

Well done. We encourage other industry bodies to do the same.

What's in it for us?

The consumer goods and services industry, spearheaded by the Consumer Goods Council of South Africa, took advantage of the opportunity created by the CPA to co-regulate by developing a code of conduct and creating an ombud.

The Ombud's procedures were largely developed by the industry itself and the Ombudsman was appointed by the industry in consultation with consumer organisations. Industry representatives sit on the Consumer Goods and Services Ombud (NPC) (CGSO)'s board to ensure the office operates efficiently in terms of both turnaround times and cost per finalised case.

Certain of the functions of the NCC have been delegated to CGSO, include the power to enforce the rights of a consumer in terms of the CPA or in terms of a transaction or agreement, or to otherwise resolve any consumer dispute with a supplier (sections 69(c) and 70(1)(b)). The Ombud has the power to, where it has resolved, or assisted parties in resolving their dispute, record the resolution of that dispute in the form of an order, which can be submitted to the Tribunal or the High Court to be made a consent order.

The decisions of the ombud may be referred to as a guide to the interpretation of the CPA.

The CGSO also assists the industry by collecting data about the cause of the complaints.

Additional benefits:

- Keeping disputes out of the public domain;
- Workshops/ training on Code and CPA;
- Providing an independent, impartial, fair, timely, efficient and informal external dispute resolution process;
- Helping to support improvements in systems and reducing disputes;
- Helping businesses themselves to resolve disputes with consumers;
- Saving in management time;
- Informing consumers of their responsibilities;
- Relieving businesses of the aggravation of dealing with consumers who unreasonably refuse to take no for an answer.



See you in court

Those businesses that provocatively asked us, "What will you do if we don't pay?" have received their answer in the mail: a letter of demand preceding legal action.

It is regrettable that we have had to take this step and it reflects poorly on the attitude of the offending businesses and the whole industry.

As a self funding non profit company we had no alternative but to take this step to stave off bankruptcy. Also, those businesses that have paid their dues are fed up with carrying the can.

Although our complaints numbers are comparable to those of other ombuds schemes, we operate on a shoe string.

Consumer Goods and Services Supply Chain:

Just who does it include?

The CGSO has from the start had to take a shot in the dark as far as deciding which businesses fall within its jurisdiction.

The Code defines the Consumer Goods and Services Industry as being all Participants and/or entities involved in the Supply Chain that provides, markets and/or offers to supply Goods and Services to Consumers, unless excluded in terms of clause 4.4.

This is not of much practical use and there is no Big Blue Book to refer to to find out who should be registering with CGSO.

It is important to know exactly who should participate in CGSO as only when all the eligible businesses are registered will we be in a position to change the participant fee structure.

It stands to reason that the more businesses there are to bear the load, the less each one will have to carry.

Early indications from the research done by Trifecta Capital, whom we appointed to manage participant

registration, are that the largest concentration of businesses falls within the CGSO fee structure group 4 (businesses with a turnover of R5 Million to R500 Million). At present these businesses are expected to pay R 3 000 per annum, compared to the R250 000 per annum paid by businesses with a turnover of over three billion. A fraction of a percent of businesses fall within this category.

The implication is that an increase in the fee paid by group 4 businesses would enable CGSO to reduce the fees paid by group 1 businesses to a more acceptable level.

Industry Liaison Committee

Following the inaugural meeting of the Industry Liaison Committee immediately after the Code launch function in May 2015, meetings of the Committee were held separately in Johannesburg and Cape Town to accommodate businesses operating in those respective regions.

Both meetings were very well attended.

ADVISORY NOTE

Mental distress

In order to claim for psychological shock from finding something repulsive in one's food, one must prove one suffered significant or long term emotional distress accompanied by physical symptomatology (all of the subjective indicators of an illness). **For more, see www.cgso.org.za.**

Terminology

Q: What does the word complaint mean?

A: "Complaint" means an expression of dissatisfaction made by a Consumer to a Participant related to its Goods and/or Services or the complaints-handling process pursued or alternatively embarked on thus far by the Consumer, the essence of which falls within the ambit of the CPA



Recent Decisions

Return of goods

Extract

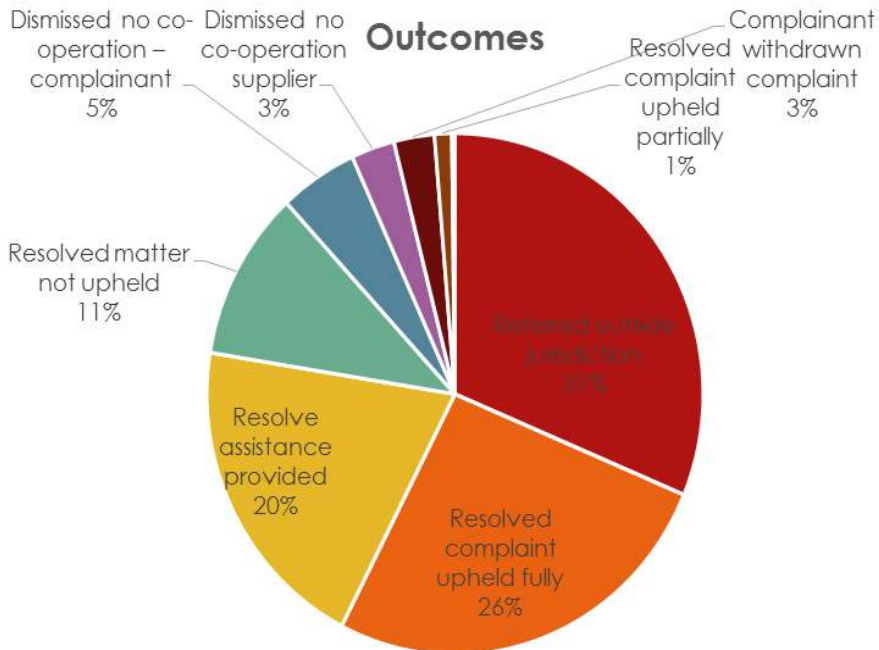
The most widely misunderstood aspect of the CPA is the right to return goods or cancel an agreement. Many people mistakenly believe that they have the absolute right to change their minds after buying something and to return it for a refund.

Unless the shop has a refund policy, it is not obliged to take back goods just because the customer changed their mind .

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Outcomes



Tail Piece

A thought for those businesses that have not yet joined CGSO:

The time has come
 To say fair's fair
 To pay the rent
 To pay [y]our share

Midnight Oil: *Beds are burning*

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