

Ensuring fair play between brands and consumers

Brands and businesses shouldn't fear the Consumer Protection Act. Instead they should welcome its drive to promote fairness, openness and good business practices among suppliers of goods and services and consumers. Should your brand or business be faced with a consumer complaint, the CGSO is here to assist by providing an alternative dispute resolution service.

The Consumer Goods and Services Ombud (CGSO) is established and accredited in terms of section 82(6) of the Consumer Protection Act. This Act empowers the Minister of Trade and Industry to approve and promulgate an Industry Code of Conduct, which allows industry to manage its own disputes instead of allowing each and every complaint to be investigated by the National Consumer Commission.

The Consumer Goods and Services Industry Code of Conduct was promulgated by the Minister of Trade and Industry on 29 April 2015. As a result, it is compulsory for all qualifying businesses to comply with the Code through signing up to the CGSO, paying the participation fees and complying with the dispute resolution process outlined in the Code and the CPA.

The CGSO began operating in March 2013 after initially being set up by the Consumer Goods Council of South Africa. It has evolved into a fully independent entity whose role is to provide an alternative dispute resolution service as provided for in section 70 of the Consumer Protection Act.

'Since our mandate became formalised in April 2015, we have fielded more than 61 000 calls, opened some



“We have fielded more than 61 000 calls, opened some 19 410 complaints and closed more than 18 000”

19 410 complaints and closed more than 18 000,' says Katlego Lehabe, business development manager at the CGSO.

'The office does not have powers to make binding decisions. If parties to a dispute fail to reach a settlement or disagree with our recommendations, a complainant has the right to lodge a complaint with the National Consumer Commission (NCC). The NCC can then

conduct a formal investigation and if warranted, refer the case to the National Consumer Tribunal (NCT). The NCT has the power to levy administrative penalties of up to 10 percent of annual turnover or make any other appropriate order for refunds etc.'

The CGSO is governed by a board of directors comprising industry, consumer body and independent representatives. It is funded through levies and fees, which the CGSO is empowered to charge in terms of its Code. Although the board consists of industry representatives, they play no role in the adjudication of complaints.

This ensures complaints are managed independently without the influence of industry. The CGSO has to report to the Department of Trade and Industry and the NCC on complaints received, trends and non-cooperative suppliers.

What does the CGSO do?

'We receive and assist in resolving complaints by consumers against members (participants) of the Consumer Goods and Services Industry in terms of the Consumer Protection Act (CPA) and enforce the Industry Code of Conduct. Participants can also refer difficult cases to the Ombud instead of litigating,' Lehabe comments.

If you're unsure of who the Code applies to, Lehabe says it applies to all

Table 1

Group	Turnover range	Old annual fee	New annual fee
Group 1	R3 billion +	R250 000	R200 000
Group 2	Above R1 billion to R3 billion	R150 000	R120 000
Group 3	Above R500 million to R1 billion	R50 000	R40 000
Group 4	Above R5 million to R500 million	R3 000	R3 360
Group 5	Above R1 million to R5 million	R1 500	R1 680
Group 6	R1 to R1 million	no cost	no cost

retailers, suppliers, wholesalers, distributors, manufactures, producers, importers, intermediaries, logistics and supply chain agents in the FMCG industry, unless regulated elsewhere by public regulation or a Code of Conduct accredited in terms of section 82 of the CPA.

Currently the only other accredited Code is the Motor Industry Code of Conduct.

Benefits and participation

'The CGSO receives and deals with complaints and disputes by a consumer relating to the Code or CPA. It facilitates unbiased, quick and effective dispute resolution between consumers (at no charge)

DID YOU KNOW?

Even if your products are covered by an entity or retailer already subscribed to CGSO, in terms of the CPA, **everyone in the supply chain is jointly and severally liable**, and the CGSO can decide which party is liable in the event of a consumer complaint.

and industry in terms of CPA (and part of the value chain),' he adds.

While the Code guides industry to minimum standards when engaging with consumers (private judge); the CGSO collects industry data – causes, systematic and recurring problems – and makes recommendations.

The CGSO is equipped to resolve difficult complainants and reduce the administrative burden (time, effort and costs) of its members. It takes restorative, not punitive action against a business in the form of non-compliance notices or fines). It also identifies ways of increasing CPA compliance as an extension of internal resolution processes and works to educate the FMCG value chain on the Code and the CGSO.

But what happens if you refuse to participate in the CGSO scheme? Lehabe says you will be in contravention of section 82(8) of the Consumer Protection Act) and might be liable for an administrative fine and other punitive measures should the NCC investigate your company and refer the matter to the National Consumer Tribunal.

What are the costs involved?

The CGSO scheme is a mandatory one that consumer goods and services companies are obligated to register with and contribute towards the running costs of the ombud.

In terms of the CGCSI Code, participants shall contribute to the funding of the operations of the CGSO by means of the payment of a joining fee and an annual levy and (if necessary) a special levy,



Magauta Mphahlele

MEET THE OMBUDSMAN

At the 2019 P&C Review Beauty Business & Partners Conference, Magauta Mphahlele, CGSO ombudsman, shared an interesting discussion on how companies that offer consumer goods and services can use the ombud to their advantage. Member companies have access to CPA experts through the CGSO, who are just a phone call away should they need advice on a matter.

She says sustainable companies understand the value of dealing with consumer complaints in an appropriate manner. This means working together at ombud level to resolve the complaint. Bear in mind, the alternative to an ombud is court proceedings, which could cost a company involved in a compliant its ability to trade.

Mphahlele is passionate about ensuring a healthy and fair credit and consumer protection market in South Africa. She is a respected speaker and commentator on credit and general consumer protection issues.

determined from time to time by the CGSO board (see Table 1).

To avoid the reputational and regulatory risk that results from not handling customer complaints well, brands and business should register as participants of the Consumer Goods and Services Ombud Scheme, to become Code and CPA compliant. You'll be joining more than 700 companies already on the Consumer Goods and Services Ombud's list of registered participants. •

Call +27 (0)11 781 2607 and a CGSO business development officer will take you through the registration process, or you can visit the CGSO website, www.cgso.org.za, and register online.



▲ Katlago Lehabe is responsible for creating awareness amongst all qualifying businesses in South Africa about their obligations arising out of the CPA and the Consumer Goods and Services Industry Code of Conduct