

Chapter 2 - Conflict and the Consumer

Problems encountered by consumers

- Inferior quality goods or poor service
- The use of misleading advertisements such as dubious price reductions
- Overcharging through higher prices
- Lack of awareness of consumer legislation by both retailers and consumers
- Poor after sales service when pursuing warranties or guarantees
- Failure to read the small print on policy documents

Consumer Protection and Legislation

Small Claims Court

The aim of this court is to help the consumer and to be accessible, speedy, inexpensive and fair. If you are looking for a remedy for relatively small amounts of money you can take the case to this court.

- No need for lawyers, much cheaper than going to court
- Speedy decision for consumer and business
- Deals with claims up to the value of €1300
- If solution can't be found then case goes to District court
- Enforcing awards has so far proved the biggest obstacle.

Ombudsman

The task of the ombudsman is to investigate complaints from the general public who feel that they have been unfairly treated by certain public bodies(e.g. FAS, HSE, Department of Social & Family Affairs etc...). The state's ombudsman gets involved on behalf of the customer where there has been inaction and inefficiency in dealing with complaints to public bodies and government departments.

- An ombudsman is regarded as a mediator or conciliator
- Acts like a referee in these matters.
- An ombudsman has the power to demand information.
- Can require an official of the said body to attend a meeting with the ombudsman to answer to their actions concerning the complaint.

Financial Ombudsman

An ombudsman also now exists for credit institutions and for the insurance industry. The credit institutions and the insurance industry pay for the cost of this service.

National Consumer Agency

The National Consumer Agency (NCA) was set up on a statutory basis, by the Minister for Enterprise, Trade and Employment in May 2007. The Agency will deliver a range of services to consumer including:

- Advocacy
- Research
- Information and awareness
- Education
- Enforcement of consumer laws (see below)

The Agency will also be working with business to further consumer interests.

Consumer Legislation

The Consumer Information Act 1978

This act requires that all advertisements to be legal. Prohibiting false or misleading advertisements about prices, goods and services protects consumers. It is a criminal offence to give false product descriptions regarding goods and services. An example of a product description 'Pure Gold', 'Pure Wool', '5 Star Hotel' 'Free from Artificial colours & preservatives'..

- It is a criminal offence to give false or misleading statements as to services provided. For example a '24 Hour Shop' that is not always open or 'Free Delivery' by a fast food outlet that turns out not to be free.
- It is a criminal offence to mislead consumers regarding prices. A displayed price must have been charged at the previous price for twenty-eight successive days during the previous 3 months.
- Advertisements should not be misleading
- Under this law The National Consumer Agency has the power to investigate consumer complaints and to prosecute offenders.

The Sale of Goods and Supply of Services Act 1980

This law was introduced to protect consumers when buying goods or services. Its main points are that:

- Goods sold should be of merchantable quality.
 - Goods sold should be fit for the purpose intended
 - Goods bought by description must correspond with the description
 - Goods sold by sample must correspond with the sample
 - The retailer is responsible for putting everything right
- Guarantees given in the sale of goods are regarded as additional benefits that will not affect one's statutory rights.
 - Consumers are entitled to choose from a refund, credit note or replacement for faulty goods
 - For a contract of service, the provider must have the necessary skill and use material that is of merchantable quality
 - For Hire Purchase (HP) agreements, the store and the HP company are jointly and severally liable for faulty goods.

In the case of unsolicited goods, a consumer may keep them in the following circumstances:

- If 30 days have elapsed after the consumer has given written notice to the sender of the fact that the goods are unsolicited.
- At the end of six months, if the sender has not collected the goods and if the consumer has not prevented collection.

Data Protection Act 1988

This law was enacted to deal with privacy issues emanating from the widespread availability of information stored on computer about individuals and businesses.

Under the law the office of Data Protection Commissioner was established, with responsibility for supervising and monitoring the provisions contained in the legislation. The commissioner will also be responsible for preparing and publishing an annual report. The main provisions are as follows:

- The information must be **obtained and processed fairly**.
- The information must be **accurate and updated** on a regular basis.
- The information must be maintained for one or more specified and **lawful purposes**.
- Information must not be **inadequate, irrelevant or excessive**.
- Information must only be maintained for the **time** that it is required.
- All personal data must be kept **safe and secure**,
- A **copy** of a person's data or file must be presented to them on request.

Legal Rights of individuals

- Individuals have the right to access their personal data.
- Individuals have the right to update or delete inaccurate information.
- To make a complaint to the Data Protection Commissioner re any breaches of the Act.
- To make a claim for compensation through the courts relating to any damage suffered as a consequence of mishandling data maintained on computer.