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Consumerfair

Putting consumer issues on the agenda

March 2005

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Let's stop this credit bureau madness

Thousands of South Africans are 'blacklisted' every month for not keeping up with repayments on their accounts – mainly store-cards, bank credit or mortgages. This blacklisting goes on without any public control and consumers struggle to get proper redress within the current system. Consumer Fair looks at why the credit bureau industry needs better regulation



For most blacklisted consumers, it's a long walk back to financial freedom

ACCESS TO CREDIT plays an important role in improving the quality of life of consumers – especially in the purchase of property, cars, furniture and household goods. It is also plays an important role in helping small businesses to start and create jobs – but this is undermined by the heavy-handed behaviour of credit bureaus. The problem is that it is far too easy to blacklist a consumer, and far too difficult for that person to recover their ability to borrow.

Credit bureaus are, essentially, a law unto themselves. They collect information about people who default with their repayments on loans or purchases, and sell this information to lenders.

But they do this on their own terms. They decide who goes onto a blacklist, and why. They decide whether the allegations are factual, and how this personal information is used. They even decide how much to charge you if you want to

see information about yourself. Surely consumers should have access to their own file for free?

Being an industry with its own association allows credit bureaus the resources and influence to lobby government more effectively than consumer groups – inevitably putting consumers at a disadvantage when it comes to policy issues.

One of the problems with the uncontrolled credit bureau industry is that it is not required to give any consideration to the circumstances around a defaulting lender. A responsible person who loses his job unexpectedly, for instance, is treated no differently from a fraudster.

The credit bureau industry – like any other – is driven by profitability, so companies are eager to fill their databases with names. After all, these are the products they sell to customers. But what are Turn to page 2

Eight habits of highly effective complainers

By Lauren Nott

THE ONLY WAY TO KEEP our young democracy healthy is to speak out and let those who have power in our daily lives know when you are not happy about things. In today's consumer-oriented world, unless we keep suppliers of goods and services on their toes, we are doomed to accept second-rate treatment from them.

As consumers, we underestimate the power we have. It is time to claim this power and to vote with our wallets if

shops do not meet our expectations. It's simple: if goods are not up to scratch, go somewhere else in our search for quality. Whether you are dealing with a government department, major retailer, or a micro-lender, the principles are the same.

Here are a few tips to ensure that your complaint gets you the result you deserve:

- Be prepared. Keep all your original paperwork of purchases you've made (receipts, manuals, serial numbers, brand names, warranties, etc) in a safe place. Having facts always puts you in a good

position to get results. It is also useful to get the name of the person who served you.

- Don't wait too long before you lay your complaint.
- Stay calm. You can state your case politely but assertively so that the shop goes the extra mile to assist you. Always listen carefully to what the retailer is saying as they may have reasonable explanations for the problem.
- Explain clearly what the problem is, what you have done to solve it and whom you have dealt with. If you are

doing this over the phone, write down notes of the conversations, who you spoke to, and the dates on which they were held.

- Suggest options that you would find acceptable, such as refund of money, repair of goods or an exchange of goods.
- Find out the name of the person who has the power to make decisions about your problem (he might be the manager or owner of the business).
- Put all your complaints in writing so there is always a record and it gives you time to think carefully about what you

want as a result. In your letters, always include a date by which you expect an answer – 14 days is usually the norm. Say that if you don't hear from them, you will consider taking further action.

- If you don't win at first, try the Provincial Consumer Courts, various Ombudsmen, Associations, Councils or small claims courts in your area for further help (see the list of organizations and their contact details below).

Lauren Nott is the Regional Director of Black Sash, based in Knysna. The Black Sash turns 50 years old in May this year and is committed to ensuring that the rights of consumers are upheld and respected.

From page 1

the exact criteria that credit bureaus use before they enter a name on their blacklist? And are these criteria open to public scrutiny?

Another problem is the length of time set for the 'rehabilitation' of consumers after they have repaid their outstanding loans. A question must be asked about what this 'rehabilitation' is meant to achieve, especially when the causes for

a payment default are reasonable.

When companies go insolvent, the list of people owing them money is often sold to a third party, to recover debts. In the throws of collapse, a business's records are often not kept properly, with the result that the debt-collecting company acts on incorrect information and demands money from customers who have in fact paid in full.

This would not be such a problem if

the debt-collector was required to investigate each query properly. But because it's so easy to add a name to credit bureau list, this is what they do – to the cost and inconvenience of the consumer, who is then landed with the onus of proving himself innocent.

The issue of credit bureaus cannot be viewed in isolation. They thrive because so many South Africans cannot afford the debt or obligations they have taken on. This relates to factors like:

- The high cost of credit, especially cash loans made by the booming micro lending industry (where 30% interest a month is not unusual);
- Misleading advertising, which lures people into transactions they don't understand and can't afford;
- Unethical business practices exercised by unscrupulous traders;
- Agreements that are not clear to the lay-person, and which are not properly explained to consumers;
- High levels of poverty, where people often borrow money just to meet monthly needs.

As mentioned earlier, a particular casualty of credit bureau listings are entrepreneurs. When their businesses fail, they often get blacklisted, their property gets attached and they are effectively put out of economic action. But these people are not confidence tricksters – they are the ones that government is relying upon to create jobs. And the problems that drag their businesses down are not all of their own making. There is a perpetual hardship of late payment by many big businesses and, ironically, by government itself – as well as a lack of competition in many sectors.

Indeed, one of the biggest problems faced by entrepreneurs is access to credit, and a system of blacklisting without suf-

Case Study No 1

SIPHO NDLOVU (not his real name) was forced to flee his house at Isipingo in Durban during the political violence of the late 1980s – his life, and the lives of his wife and daughters, was in grave danger. The ongoing violence meant that he could not return, and he had to make plans to stay elsewhere.

He still had to keep up the mortgage repayments on the house that he had left, however, but could not afford to do this while paying rent in a safer area. He fell behind with his mortgage repayments, and was blacklisted by the bank.

Bit by bit, and after a number of years, he finally paid off that mortgage. He then wanted to purchase a home in the area he had moved to. The bank would not lend him the money, though. They simply refused to rescind the judgment.

Case Study No 2

GLENDIA SMITH (not her real name) was sold a discount membership to the Health & Racquet Club in 1999, paying just over R90 a month. Later on the day she had signed, she was contacted to say the amount on the contract was incorrect, and that the monthly fee was actually over R100. Glenda insisted that she would only pay the amount she had signed for, or alternatively wished to cancel the contract.

Despite the fact that Glenda never even possessed a Health & Racquet Club card, the wrangling went on. They insisted she pay the new amount and later said they couldn't verify her claim about the discount rate because the salesman who had dealt with her had left the company.

Now, over five years later – with the situation further complicated by the collapse of Health & Racquet – Glenda has been blacklisted and is receiving lawyers' letters demanding almost R9,000 (plus interest) for club subscriptions, legal fees and various other charges.

Glenda is not alone in her predicament; there are many people who have encountered similar problems with the selling tactics of health clubs, as well as their demise and re-emergence under different names.

Editorial

WELCOME TO THE FIRST EDITION of Consumer Fair – a voice for consumer concerns and opinions, and a voice that will join the chorus of other civil society groups working toward a strong consumer movement.

Funds raised from the sale of advertising in Consumer Fair will go to the National Consumer Forum, a not-for-profit consumer organization, boosting our ability to lobby more effectively on consumer rights issues.

Not just a nice-to-have

Consumer rights are not just one of the niceties of a democracy – they are an economic and political necessity. Especially within the new pressures of the global village, our economy needs to be kept trim and efficient.

Modern countries all accept that consumers have a crucial role in achieving this: by being demanding. If we don't do that, we let the nation down – we allow our businesses and government to become flabby, unresponsive and globally uncompetitive. With international competition now past our doorstep and in our living room, such economic inefficiency would spell disaster.

From government's perspective, it needs consumers to help it keep the balance between what people need and what they can afford. Government's job is to create the environment in which people can buy and sell equitably, so that consumers can buy what they need and businesses can thrive. Where goods are unaffordable and poverty reigns, political instability will follow.

A struggle first time round

This is possibly the first publication of its kind in South Africa – and most people tell us it's long overdue. As overdue as it is, it was still a struggle to get Consumer Fair off the ground. This edition has been produced on a shoe-string by volunteers and well-wishers, but with precious little support forthcoming from government or business.

This has not been for lack of trying. We have approached numerous government agencies – especially those tasked with consumer affairs and with the mandate to support the consumer-related activities of civil society.

As you will see, our resulting advertising is sparse – just enough to pay the printers. Getting the newspaper into your hands was only made possible by the assistance of Pick n Pay, whose store network has provided distribution points.

ncf.consult@ananzi.co.za

Being the first edition, there is not much in the way of feedback or letters, but we'll be expecting plenty of that after this paper hits the streets. For that reason, we've included our contact details on almost every page, so you've got no reason to avoid picking up the phone, writing a letter or email, or sending us a fax!

Modern countries all accept that consumers have a crucial role in achieving a trim and efficient economy. With international competition now past our doorstep and in our living room, economic inefficiency would spell disaster

Consumer body builds muscle

Ten years since it was formed, the National Consumer Forum (NCF) is gearing up to play a more active lobbying and advocacy role on consumer issues. Consumer Fair spoke to NCF chairperson Thami Bolani about what's been happening and what the future holds



NCF chairperson Thami Bolani: "Awareness around consumer issues and rights is growing rapidly"

After some promising initiatives since 1994, consumer rights seem to have been hidden in the background for the past few years. What has happened to the consumer movement?

The past five years have been quite difficult for the National Consumer Forum and other consumer bodies due to a lack of resources and lack of support, especially from government agencies responsible for consumer protection. This newspaper confirms this. Only one province has remained sympathetic to the NCF – possibly because the head of that office was an activist before joining government.

Despite this, there have been some successes and, with the launch of Consumer Fair, the NCF is entering a new era of growth to become a stronger voice for consumers in our country. There are a number of exciting initiatives that we are busy working on that our readers will be reading about shortly. But most importantly, queries for member-

ship are coming in daily. The next ten years are going to be very interesting for the consumer movement in South Africa. Awareness around consumer issues and rights is growing rapidly. People are becoming better informed and are demanding safety and quality in the goods and services they buy. The numbers of people seeking to join consumer organizations is on the rise, as is the number of people who are approaching organizations such as ours for help and advice on consumer issues.

This is good for the country; we need an active consumer movement that will form part of the country's civil society structures to lobby strongly for access to water and sanitation services, housing for all, food safety and security, access to quality healthcare, etc. These goals cannot be separated from the rights we campaigned for under the apartheid system.

Credit bureaus or blacklisting

Association of Credit Bureaus, Tel (011) 886 8519

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How does the NCF plan to make a difference to the plight of consumers who are exploited by business or who experience poor service from government agencies?

The most important thing is to ensure that our people have access to information. This will empower us to become active players in the market place – consumers who are discriminating and able to take decisions that protect their limited resources. Informed consumers will be able to deal more effectively with unscrupulous businesses and with civil servants who ignore the principles of Batho Pele (People First).

To this end, the NCF will intensify its consumer education work. Crucial in this work is our relationship with the media and, in particular, the radio. We are also planning to extend the services of the NCF to encourage people to join the movement. We expect this newspaper to play an important role in lobbying for pro-consumer policies.

What are the main complaints that consumers bring to the NCF and other consumer rights organizations?

About half of the complaints are about credit – the credit bureaus, garnishee orders, administration orders, debt collectors, etc. Then you have the furniture industry – another monster in the eyes of the consumer. The interest rates they charge are shocking. It is quite interesting that the first consumer bodies among Africans were established as a result of the excesses of this industry. How this has continued to this day is simply amazing.

Other problematic sectors are the motor industry and health services.

Is government doing enough to build the capacity of consumers to speak out on matters that affect them?

Not much until very recently. I think that with the Consumer Credit Bill and Consumer Bill, things are changing somewhat. But in order to develop a strong consumer voice in the country, government will have to drastically change its attitude towards consumer bodies. Their attitude of pretending we do not exist has to stop; many government agencies and individuals do not even respond to our letters, phone calls or emails. One would expect that people employed in consumer affairs offices would be the main champions of good customer and stakeholder care, in line with the principles of Batho Pele.

We would like to see government taking a more active role in working with us and supporting us as consumer organizations. We are a crucial link between government and the public, and can design and implement the programmes that the public needs. But there is little political or financial commitment forthcoming.

At the moment, support to consumer bodies seems to be limited to high-profile events and awards on World Consumer Rights Day, when millions is spent on fanfare and speeches. Those resources would be better directed toward funding project work and education initiatives among consumers, rather than on public relations, hotel bills and fancy dinners.



MEDICINE PRICES FOR BEGINNERS

By Pat Sidley

IT DOES INDEED seem to take a rocket scientist to understand what has happened to medicine prices since the government first threatened to reduce prices. The government has, in fact, done everything in its power to do just this – but prices at this moment are higher for most consumers, than they have ever been.

To understand what has happened, one has to go back a number of years.

When the new government assumed power in 1994, it inherited a system with an expensive and exclusive private health care system, which used most resources in health and spent them on a small amount of people. At the same time, it inherited a public health system which served one group quite well – but was not particularly helpful for many groups.

The African National Congress also arrived with a health policy it intended using to address most of these problems. It was in this policy that a serious researcher would find the basics of what is now the Medicines and Related Substances Control Act (Medicines Act) which is the piece of law that caused all the trouble.

The ANC was not alone in noticing then that medicine prices were very high in the private sector – so high, that it often exceeded the prices in developed countries in the west. Every consumer buying these medicines at a pharmacist, noticed this with serious discomfort.

A variety of factors had brought this situation about:

- The profits made in retailing medicines was calculated by a percentage margin. This ensured that the higher the basic price of the medicine, the more incentive there was to sell that high-priced

medicine. The pharmacist, dispensing doctor, or hospital with pharmacies made their profits on this system.

- The drug manufacturers used this system to good effect by introducing large discounts to those retailers or dispensing doctors who would ensure that large amounts of expensive medicines found their way into our bodies. They also gave out large amounts of “samples” free and developed a system of giving bonuses to suppliers. All-in-all, this system meant that while the margins got larger, certain ethically and medically dubious practices became entrenched to push expensive medicines, which were not necessarily always the best medicine for the patient – but often were for the person making the margin.

- A somewhat cumbersome system between the manufacturer and retailer did its bit to push costs up. The government devised a system to remove profits from the sale of medicines in this way. Those people who were qualified to prescribe drugs – the doctors – would be largely limited to prescribing, and not dispensing. Those who dispensed (pharmacists, hospitals and those doctors with a license to dispense) would be remunerated professionally by a dispensing fee.

Generic prescribing and dispensing would also be encouraged to keep costs down.

The government planned, in the law, to have a pricing committee which would set a Single Exit Price (one price for all as the medicines left the factories) for each drug which could not be varied. Distribution costs would also be looked at and all medicines containers would carry the Single Exit Price as well as the dispensing fee.

Simple? It would have been, had any one constituency allowed it to take shape.

The first obstacle to all of this was the mammoth and costly court case launched in the late 90s by the multinational pharmaceutical companies to stop the legislation altogether. They failed, but it had stalled progress on the rest of the implementation of the Act.

Then discussions started between the companies and the department on a Single Exit Price. It was some time during this process that Health Minister Manto Tshabalala-Msimang said that when fully implemented she hoped the prices would drop by between 40% and 70%. But it took some squeezing to get any firm agreements on the Single Exit Price, and by the time that took place, the next set of court cases were in progress. Doctors first, then retailers.

Each time court proceedings started, they not only stalled progress, depending on the court and the legal process, it may even have had the effect of actually reversing progress.

This is what took place – in fits and starts and in bits and pieces. At times last year, the law was in place outlawing discounts, but the Single Exit Price was not – nor were the regulations for retail and dispensing. What ensued was an expensive free-for-all. Given the opportunity, retailers charged more, and discounts were nowhere to be seen.

To add to consumer discomfort, medical schemes landed up being caught between the proverbial rock and hard place. They are obliged to keep to their own rules and stick to the Medical Schemes Act. This required that at the beginning of each year, their new rules and premiums are set by the scheme but

have to be agreed to by the Registrar for Medical Schemes. For a scheme, it was impossible to keep changing their rules for reimbursing members each time a stakeholder rebelled in court, or a court ruled removing a regulation.

Nobody anticipated either, that pharmacists would decide to charge for items that had never attracted a charge before. The law failed to anticipate these actions as well. This is what the much debated administration fees are about. And complicating that too, is the fact that schemes are basically not allowed to reimburse these fees.

That is where we find ourselves now. The Constitutional Court is about to hear the whole thing again – on March 15.

But don't hold your breath. There will be a further period of “uncertainty” while the court thinks about things and then makes a ruling. Which ever way the ruling goes, there will be a period of time in which the government will look again at some of the legislations. This means, effectively, that at least until the end of the year, there will be indecision and uncomfortably high prices.

And if the whole law and all its regulations are sent back to the drawing board, it will be another year before what started out as a really good attempt by the government, to drop prices to you and me, will get back up off the ground.

Pat Sidley is the head of communication and education at the Council for Medical Schemes.

For more information...

www.medicalschemes.com

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Consumer rights: at the frontline in the fight against poverty

Julian Edwards

Consumer rights are a fundamental part of the fight to eradicate global poverty. Surprised? Your thoughts may have been turning to getting value for money when buying a vacuum cleaner or obtaining a refund on a faulty toaster.

For much of the world's population, such concerns are very distant. But poor people have consumer rights too - above all, to be consumers of the basic services which support dignity and independence, and to a healthy sustainable environment.

From its inception, the consumer movement has been immersed in the struggle for civic, social and political rights

The fight for consumer rights dates back to the turn of the 19th century with the formation of the Consumer League of New York. The group sought to direct the purchasing power of the working class towards companies that respected labour rights, decent working conditions, a fair wage and no child labour.

From its inception, then, the consumer movement has been immersed in the struggle for civic, social and political rights.

The consumer movement grew across the US throughout the first half of the 20th century, before establishing

itself in post-war Europe, a major base of action and support ever since.

After the International Organisation of Consumers Unions was formed in 1960 - which became Consumers International - the movement extended into Asia, Latin America, and Africa in the 1970s and 1980s and throughout the former Soviet Union in the 1990s.

The global character of today's consumer movement has recast the agenda. Most of Consumers International's member organisations are from the developing world, reflecting the geographical spread of the 6-billion consumers they represent. It is now their needs and their struggle that takes centre stage.

Most of CI's member organisations are from the developing world... It is now their needs and their struggle that takes centre stage

You might ask: "How can people in the developing world be classified as consumers when 1.3-billion of them subsist on less than a dollar a day?" The answer lies at the heart of the consumer movement's fight against poverty.

The statistics are grim:

- 160-million children worldwide suffer from malnutrition;
- 680-million people have no access to basic health care;

- 1.1-billion people lack an adequate supply of safe water;
- 2.4-billion people lack access to proper sanitation; and
- 2-billion people have no access to electricity.

These figures are not only a cause and effect of poverty. They are symptomatic of an inability among the world's poor to exercise the most basic consumption right: access to the essentials of everyday life.

One in six of the world's population do not have access to adequate water, yet the views of these people is largely ignored in policy decisions

Access to the means to meet basic needs is the first of the eight Consumer Rights. These rights - reflecting the UN Guidelines on Consumer Protection - form the basis of policy for consumer organisations.

As the figures show, one in six of the world's population do not have access to adequate water, and two-fifths lack sanitation. Yet the views of these people are largely ignored in national and international policy decisions about water access, ownership, cost and environmental impact.

Consumers International's approach is to push for a decision-making process that allows those whose lives are most affected to have an equal say.

At the international level, the contribution of Consumers International to the Global Water Scoping Process - a working group of public and private providers, labour organisations, government bodies and NGOs set up to assess the impact of private participation in water supply - has helped keep the concerns of the poor on the water agenda.

The position of CI is further evident in the organisation's campaigns to regulate genetically modified crops, eradicate agricultural dumping, encourage corporate social responsibility, and ensure fairness within international trade agreements. Consumer organisations have a vital role in the fight to eradicate poverty. In advocating the rights of the consumer, CI tries to influence policies that are all too often dictated by free market fundamentalism.

Consumer groups recognise the benefits that market economies can provide. Indeed, market economies are now the accepted norm for economic management.

What is required is the empowerment of consumers with information, legal protection and necessary regulation to balance the interests of the providers of goods and services

But most of the debate about poverty, development and the benefits of trade

focuses on production (that is, the supply side of the market equation). In reality, markets cannot be effective without a well-organised demand side as well - where the consumers are.

This requires the empowerment of consumers with information, legal protection and necessary regulation (especially of essential services) to balance the interests of the providers of goods and services.

If market economies and the processes of globalisation are ever to realise the widespread human benefits so regularly claimed for them, demand-side considerations must carry the same weight as supply.

The consumer movement's role is to ensure that this happens.

This is an edited version of an article written last year by Julian Edwards, Director General of Consumers International (CI), a London-based non-profit organization supporting consumer groups and agencies all over the world. It has 250 member organisations in 115 countries, and strives to promote a fairer society through defending the rights of all consumers - especially the poor, marginalised and disadvantaged.

For more information...

Consumers International's website:
www.consumersinternational.org

Will the Commission for Africa hear the consumer's voice?

Gordon Brown's recent visit to South Africa raised hopes that developed countries were taking a renewed interest in Africa, particularly in addressing the root causes - rather than just the symptoms - of its poverty

THE Consumers International office for Africa gave Britain's Chancellor of the Exchequer Gordon Brown this advice: strengthen Africa's consumers and you will strengthen Africa.

There is little empowerment of consumers across Africa, with few national policies and regulations in place to protect consumers from exploitation and unfair practices. This means that there are few mechanisms to check the quality and quantity of goods and services available to consumers.

Consumers also need their own independent organisations to empower them to stand up for their rights against overbearing government authorities and companies. As the basis of civil society, weak consumers mean no accountability for those wielding power.

Brown was asked to take note of these particular concerns:

Trade liberalisation

Access to international markets has the

potential to improve the livelihoods of African producers, but the way in which markets have been opened has mainly benefited rich countries and multinational companies at the expense of African enterprises and consumers.

Food and agriculture

African governments have cut support to farming households, in line with structural adjustment policies. This has raised farmers' costs and lowered their earnings. At the same time, high subsidies and other domestic support for food exports, especially by the European Union and the USA, has boosted cheaper food imports, which lower prices on African domestic markets.

Food safety

The trade in food and agricultural goods has been liberalised faster than the food standards authorities in many African countries can enact and enforce adequate standards. There are many reports of

sub-standard products being sold in African countries, despite bans on these products in their country of origin. African countries need to act to stop dumping of expired, counterfeit or unfit foods on consumers.

Genetically modified foods

Genetically modified organisms (GMOs) and products derived from GMOs are now entering Africa, through field trials, imported foods and food aid. Before the discussion even begins about whether GMOs are a good thing or not, the movement of these products needs to be monitored and controlled. In most African countries, there are no regulations in place to deal with GMOs. African countries need to enact national biosafety laws and build local capacity on the issue.

Access to markets

African businesses - especially small farmers - lack access to local, regional and global markets, as these are control-

led by large companies, often foreign multinationals. The Commission for Africa needs to investigate how to ensure fair access for small farmers while regulating large companies who seek to control food production, marketing and distribution to the detriment of small farmers.

Services to consumers

As Africa has opened its economies, there have been more foreign multinationals getting involved in the delivery of essential services such as water, energy and telecommunications utilities. This has led to a net transfer of resources from Africa to the more developed countries. Delivery of better and more equitable services to African consumers must be a priority issues for all service providers.

Competition

As African countries lower their trade barriers, consumer choice is affected by mergers and cartels formed outside of their national boundaries. National com-

petition commissions (where they exist) cannot effectively analyse the impact on consumers and the domestic economy nor enforce sanctions upon the offenders.

Restrictive patents

Intellectual property is an area of immense concern for consumers as it has blocked consumer access and raised the affordability of certain products. Restrictive patents and copyrights restrict African consumers from buying and using essential drugs and other goods.

Did you know?

The Consumers International Office for Africa co-ordinates and provides support to more than 120 organisations in 46 countries in Africa. Its mission is to build and develop the consumer movement in Africa and to represent consumers regionally and internationally.

E-mail: roof@harare.iafrica.com
www.consumersinternational.org/roof



Department of Economic Development
KwaZulu Natal

CONSUMER AFFAIRS DIVISION

*Celebrating World Consumer
Rights Day, 15 March*

**CHAMPIONING AN EFFECTIVE
AND EFFICIENT CONSUMER PROTECTION
SERVICE**

The Department of Economic Development's Consumer Affairs Division celebrates World Consumer Rights Day on 15 March every year.

World Consumer Rights Day is an international event commemorated throughout the world to mobilize consumers, consumer organizations, government and private enterprise in an effort to sensitise consumers on their rights and responsibilities.

South Africa since democracy has been an ardent champion of promoting the rights and responsibilities of consumers and developing programmes that will enable consumers to make informed choices.

The Consumer Affairs Division is mandated to uphold the principles of consumer protection.

The Consumer Affairs Division networks with local government structures, schools, trade unions, community based organizations, development committees, civics and other NGO's to promote consumer education. Our consumer education programmes entail providing consumers with information to empower them to become discerning and assertive. We encourage consumers to employ creative and independent thinking before entering into any contract.

In celebrating this important event, South Africa is committed to creating an environment that will establish an effective and efficient consumer protection service.

Are our bank charges the highest in the world?

By **Barrie Terblanche**

Could it be that South African bank charges are the highest on the globe? There are strong indications that this may very well be the case. But, strangely, nobody really knows for sure.

The debate about South Africa's high bank charges so far has been characterised by the following:

- Consistent conspiracy theories that the banks have for years colluded over pricing. Nearly every South African consumer seems to know someone who knew someone who once worked at one of the banks and regularly attended meetings between officials from different banks where price levels were agreed.
- A strange lack of serious research into the issue of bank charges. As far as could be established, none of South Africa's more than twenty universities have ever properly researched the issue. This is an indictment against tax-subsidised research institutions, and suggests that South African consumers are not getting their money's worth from their universities.
- Accusations against our banks for: being almost the only ones in the world who charge a fee for deposits; for charging absurdly high fees for nearly all services; and for hiding their real charges in a confusing mix of options, sliding scales and ostensibly negotiable fees.
- The banks' argument that: South Africans are actually paying for state-of-the-art ATM (automatic teller machine) and computer technology, invested into a market with relatively few consumers; it is unfair to compare bank charges in developing countries with those of developed countries; and high crime levels make the handling of cash very expensive.

The closest that anyone has come to seriously researching bank charges was a project by a small, independent newspaper for business owners called BigNews, based in Cape Town. The story of our efforts is quite enlightening. Even though we looked only at bank charges for business owners, one can safely assume that the same broad pattern applies to the ordinary consumer.

The newspaper's interest was sparked by an informal report sent out by an official of the Micro Finance Regulatory Authority, Rashid Ahmed. He had visited New Zealand, and was struck by the fact that banks there charged virtually no service fees; their pricing structures were also very simple and easy to understand.

When BigNews asked South African banks and the Banking Council (the organisation representing SA's main banks) why our system was so costly and complex, it was met by the usual response that it was unfair and invalid to compare first-world banks with those of developing countries.

The newspaper then tried to find some research into comparisons between South African bank charges and that of other developing nations. There was none.

BigNews then set out to do the research itself. It started emailing different banks around the world, asking them for quotations on a simple basket of services. It asked them how much would it cost a beginner business owner to:

- deposit R100,000 in one month
- write out 25 cheques of R2,000 each in one month
- make 25 electronic payments of R2,000 each in one month.

South African bank charges are so complicated that the only way to structure a proper comparison was through the three scenarios above. If, for example, you were merely to ask the question, "How much

does it cost to write out a cheque?" – the answer from a local bank would nearly always be: "It depends". This is not so in other countries, where standard, predictable, flat rates are nearly always used.

Compared to the quotations from other developing countries, South African prices were shocking. The Malaysian, Thai and Brazilian banks charge nothing for depositing R100,000 in one month. South African banks charged more than or close to R1,000 at the time of doing the research.

The Malaysian and Thai banks charged nothing for paying by cheque, except for a nominal amount for the chequebook. Brazilian banks charged just of R100 for 25 cheques of R2,000 each. South African banks charged between R500 and R700.

Only in the category of electronic transfers did one other country – Brazil – turn out to be more expensive: R700 as opposed to between R200 and R300 at South African banks. The Malaysian and Thai banks charged in the region of R100.

When BigNews put these figures to the Banking Council and the banks, they gave the rather feeble response that official currency exchange rates could warp the real costs to consumers. In other words, even if one rand equals one dollar according to the official exchange rate, for example, a loaf of bread may cost R5 in South Africa but \$1 elsewhere.

BigNews pointed out that the differences in the prices were so large that purchasing power of the different currencies would not change the overall picture: that South African bank charges are very high – possibly the highest in the world – compared to other developing countries.

The final argument from the South African banking fraternity was: If SA banks were indeed making so much money, why wasn't there more interest from international banks in the South

African market?

That was just before Standard Chartered announced that it was buying the South African electronic bank 20Twenty, and Barclays announced that it was interested in buying a piece of Absa.

Consumers will be interested to see whether these new international entrants are going to make any difference to our bank charges.

We asked the Banking Council for comment on this story, but no response was forthcoming by the time we went to print.

Barrie Terblanche is the managing editor – and one of the founders – of BigNews. He also writes and researches on small business issues for a number of corporate and government clients.

CAN'T SOLVE A PROBLEM WITH YOUR BANK?

If you and your bank can't agree on how to solve a problem you have, you can always take it to an independent body – the Ombudsman for Banking Services (OBS).

The OBS will treat your complaint in a fair, impartial and confidential way, and their service is free. Their role is to help banks and their customers to resolve their disputes quickly and efficiently.

The OBS reports to a Board of four non-bankers (who are also independent of the company) and three bank representatives. The fact that most members of the board are not linked to the banks is to ensure consumers that the scheme is independent and impartial.

Remember, though, that if you have a complaint about your bank, you must first approach the bank itself. Banks have 20 working days to resolve your complaint. If they can't find a solution that satisfies you within that period, then you may approach the OBS for assistance.

Following this important step helps the OBS to speed up the process of resolving your complaint.

The scheme has several lawyers and ex-bankers that are dedicated to delivering excellent service in the complaints resolution process.

The OBS cannot make rules for the banking industry or deal with policy issues, nor give general advice about banking or financial matters. Commercial decisions taken by banks regarding fees or the granting of credit are out of the OBS's jurisdiction, unless maladministration has occurred. So, for instance, the OBS can't help you to get your bank to approve credit or alter your terms of repayment on a loan.

For further information...

Contact the OBS:
Tel: 0860 800 900
E-mail: info@obssa.co.za
Website: www.obssa.co.za
The OBS offices are on the 3rd floor, 17 Harrison Street, Johannesburg.

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Your 8 Consumer Rights

1 BASIC NEEDS

All consumers have the right to basic goods and services such as adequate food, drinking water, shelter, clothing, health care and education

2 SAFETY

Consumers have the right to protect themselves against unsafe goods and services.

Unsafe goods can lead to the destruction of property, injury and even death

3 INFORMATION

Consumers are entitled to complete information on price, quantity and ingredients from providers of goods and services

4 CHOICE

Consumers have the right to choose from a variety of quality goods and services sold at competitive prices

5 REPRESENTATION

Consumers have the right to be heard on issues, policies, plans, programmes and decisions which concern them

6 REDRESS

Consumers have the right to redress on their grievances about sub-standard, unsafe, unduly expensive goods, unfair claims and unfair business practices

7 CONSUMER EDUCATION

Consumers have the right to education that will empower them to take informed and confident choices of goods and services

8 A HEALTHY ENVIRONMENT

Consumers have the right to live and work in an environment which does not threaten their health and life and which does not pose any danger to future generations

Now send that **SMS FREE** of charge from your **Telkom landline**

Telkom has launched a free Short Message Service, enabling its residential customers to send and receive SMS messages on their fixed lines.

The service is being offered gratis during the trial period ending in April, and is part of Telkom's innovative approach to provide customers with value-added products at competitive prices.

"Telkom continues to adapt its products offerings to changing customer needs as part of enhancing its customers' lifestyles," says Telkom's Product Development Executive Steven White.

To send and receive SMS text messages, customers need to subscribe to Telkom's Identicall service, and have an SMS-capable telephone instrument.

Identicall is a CLI (Calling Line Identification) system that displays the number of the line that is calling.

The SMS service does not require a subscription fee. The monthly Identicall charge is R9.85, offering the added advantage that callers are identified. To order Identicall, call 10219. Customers who already have Identicall will be SMS-enabled automatically.

Telkom has a range of SMS capable phones available to support the service. IT has introduced two SMS terminals that can be used in conjunction with any telephone instrument. The Smessage 100, an SMS-compatible instrument, retails at R199 and a semi-cordless model Smessage200 sells at R299.

The semi-cordless model allows one to read and record messages away from the base. This is ideal when privacy is required. Messages are sent once the handheld is replaced on its home base.

The Telkom Home SMS service can handle 160 characters. Senders will receive notification upon delivery of the message.

Telkom also offers an option for customers who don't have an SMS-capable telephone. These customers will receive a voice SMS. Currently only English is supported. The system will try to deliver the voice message for two days after which it is deleted.

Telkom sMessage 100



Telkom sMessage 200



Telkom Ultimate Executive



Don't understand your contract... don't sign it

WHEN YOU SIGN a legal document, do you read the whole thing? And if you do read it, do you understand it – all of it?

Probably not, and neither do most people. The problem is that contracts are usually written by lawyers to protect the businesses they write them for. This does not help the consumer, of course, who doesn't have an impartial lawyer on hand to translate the contract.

We are expected to know exactly what we are signing, because we are agreeing to everything in the contract. There is often a lack of understanding, however, so many people are not aware of the real terms and conditions that they are agreeing to. The true implications of what you've signed then only emerges when something goes wrong. At that stage, of course, it is too late to say that you did not understand the document.

The truth is that many of the agreements we sign regularly – such as insurance policies, loans or just goods that we buy – can be written more simply to make them easier to understand.

Businesses need to move away from the idea of telling people to “read the small print”. Indeed, why have small print in the first place? If we wrote our legal documents in plain language, there would be no need for small print at all. (And who really wants to use a magnifying glass to read it anyway?)

It is time for South Africa to take the mystery out of consumer contracts and agreements. We constantly remind ourselves that this country has people from many different cultural and language backgrounds within its borders. But business still insists upon making their documents more and more difficult for

the majority of people to understand. It really is time for change.

Thanks to Joanna Curwen for her information for this article. Joanna runs courses on good legal writing – so if you know of businesses who could benefit from these courses, pass on their details to her. Her phone number is (016) 349 2031 and her e-mail address is info@curwen.za.com - also see her web site at <http://www.curwen.za.com>

Good or bad experience to report?

Write to Consumer Fair Mailbag at:
PO Box 4487, Halfway House, 1685
Email: nfc.consult@ananzi.co.za
Fax: (011) 403 1869
Or phone: (011) 403 7001

WHEN WORDS ARE USED AS WEAPONS

Sentences like this one – 249 words – are surely not fit for consumption by the average South African consumer. But before you laugh at it, be aware there's a good chance that you'll find it in your current mortgage contract.

“In the event of the Mortgagor failing to carry out and fulfil any of the terms and conditions set forth in the mortgage bond or the standard mortgage conditions or committing a breach of any of the terms or conditions stipulated in the mortgage bond or the standard mortgage conditions or should the Mortgagor commit any breach of or fail to fulfil or comply with any of the conditions of or servitudes affecting the title deed of the mortgaged property or in the event that the mortgaged property or any portion thereof should be expropriated and the Mortgagor receive compensation therefor without paying such compensation to the Bank in reduction of the Mortgagor's indebtedness, or in the event of insolvency or application for voluntary surrender or assignment of the estate of the Mortgagor for the benefit of creditors or attachment of the mortgaged property under the judgement of any Court or sale of the mortgaged property by the Mortgagor or liquidation where the Mortgagor is a company or close corporation, other juristic person, a trust, partnership or any association of persons, then and in any such case, at the option of the Bank, any sum whatsoever owing by the Mortgagor to the Bank shall be considered as legally claimable and due forthwith, without notice, and without the Mortgagor having been specially placed in default by reasons of such failure anything to the contrary hereinbefore contained notwithstanding and notwithstanding that the Bank has previously granted any indulgence to the Mortgagor.”

Small business start-up blues

Test your stamina and intellect: try registering a business – alone

Small businesses are the ‘in thing’, right? Government wants them to soak up all the unemployment (big business apparently doesn't do this anymore – they're just in the business of lay-offs and downsizing these days), and every second bank advert tells you how helpful they're going to be when you come looking for start-up capital.

The truth of the matter, though, is that most small business activity in South Africa is ‘micro’ – one- or two-man bands with little prospect of growth or breaking into the mainstream. They are hand-to-mouth affairs, with the majority of businesses not even being registered (either as close corporations, partnerships or companies).

While most small businesses don't think so, this question of registration is quite important – to government, anyway. It's the only way that government can keep track of who's doing what.

And, of course, it puts businesses into the tax-paying loop, which the SA Revenue Services is quite keen to see more of. Which is one reason why so many small

businesses avoid registering – or at least just ignore the option.

Another reason why businesses don't register is that it costs money to pay an expert to do it for you. But why don't they just register by themselves, you ask? There's a whole government agency that can help them, with its own interactive web site and advisers just a phone call away. Or is it?

The agency responsible – the Companies and Intellectual Property Registration Office (Cipro) – has made itself impenetrable, it seems, to the man in the street. (Which is presumably why there are so many companies around who will gladly register a business for you – at a sum.)

To test the Cipro system, I tried to register a CC myself – and failed. Three times. With three university degrees behind my name, I thought I might just manage to grasp their pages of instructions. I clearly overestimated myself.

The first time, I admit, I went with common sense as a guide – not a good idea when dealing with a government

agency – and posted them a cheque to pay for the registration. Bear in mind that informal businesses barely have bank accounts, let alone cheque books. But that is not allowed. In fact, were I to have tried this process a couple of years earlier, I would have had to find revenue stamps to pay for it! Apparently you buy these from SARS. I wouldn't have known where to start looking.

My application came back with a cryptic note: “Methods of payment will be as follows: 1. Direct deposit or electronic transfer into the CIPRO bank account quoting your user code (see practice manual for detail [sic] instructions available from 26 February 2004). 2. Visa, Mastercard or American Express credit or debit card payment. 3. Cash.”

The mention of a ‘practice manual’ sounded too scary for words, so I phoned their helpline for advice. No problem – just transfer the money to the CIPRO bank account and fax the registration and proof of payment. Ah! Good sense has prevailed, I thought, and what a nice helpful lady.

This I duly did. A month passed with no response. Then six weeks. So I phoned again.

“When did you say you sent this?” The nice helpful lady had turned into a dragon. “Six weeks?!” She heaved a sigh of exasperation. Do I have the registered mail slip? No, I faxed it. That brought the wall down.

“We don't take applications by fax.” And that was the end of the discussion.

She wasn't at all curious about the fact that a colleague had told me to fax it, and had even given me the fax number to send it to. She was just amazed at how stupid I was. To be honest, I was beginning to worry about myself, too.

So I posted the application and proof of payment – registered mail. So, two months down the line (and about R100 poorer for phone calls, online transactions, registered mail etc), I thought I'd clinched it.

Not so. A couple of weeks later, the application is returned again – rejected. The reason? “The prescribed fee has not been paid... If not already registered,

please register a pre-paid account with CIPRO and deposit sufficient funds into the account to cover the prescribed fee. See the legal notice in Government Gazette Number 26064, published on 18 February 2004.”

So the question remains. If government is so keen for businesses to get started and to register, why don't they make it possible? Don't they know that small businesses do everything themselves – it's one of the only reasons why they survive. They just don't go around paying experts to do everything for them.

CIPRO is in Pretoria. I think I'll drive to Pretoria with R50 cash in my pocket and start the process again. Lucky I don't live in Upington.

For help with your business...

Business Referral and Information network (BRAIN): 0860 103 703
www.brain.org.za

Paraffin deaths

Brutal evidence of manufacturers' low standards

THE SALE OF unsafe paraffin stoves is leading to thousands of house fires in South Africa each year, especially in poor, overcrowded areas where fires spread easily.

According to the Paraffin Safety Association, about 40,000 households are affected by paraffin-related fires each year. Even more horrifying is the fact that almost half of these households experience more than one fire a year.

Most of the victims are children, with burns killing more children between the ages of one and four than any other unnatural cause.

Manufacturing standards are at the heart of this national scandal, as independent tests show that none of the nine most popular paraffin stoves sold in South Africa meet the SA Bureau of Standards' recommended minimum standards.

The Paraffin Safety Association says it is busy lobbying government to make these basic safety standards mandatory.

Regional programme co-ordinator for the association, Mpume Jiji, says the problem of unsafe stoves is made worse by their use in informal structures built on rough ground and made of highly combustible material like wood and plastics. This environment can quickly turn a household accident into a major disaster.

The association has organised a stove-design competition and will be putting the best designs through laboratory testing. "The purpose of the competition is not only to identify a safer alternative paraffin stove design," says Jiji, "but also to set new standards for

...none of the nine most popular paraffin stoves sold in South Africa meet the SA Bureau of Standards' recommended minimum standards...

paraffin stoves in South Africa."

"The most important task of the association will be to overcome the apathy that abounds about paraffin safety. The only effective way to do this is to create awareness of the issues and consequences, and to inform people about what can be done.

"It's a lesson that the Treatment Action Committee [lobbying for state-provided anti-retroviral treatment] has taught us. By going public, rather than working behind the scenes, and mobilizing widespread public support, we will be able to give voice to all those people who have no alternative but to rely on paraffin for cooking and heating," says Jiji.

Over 40% of South Africans use paraffin for some part of their domestic energy requirements.

For more information...

Mpume Jiji, Paraffin Safety Association of Southern Africa: Tel (031) 266 4883

What has happened to consumer journalism?

By Pat Sidley, Council for Medical Schemes

CARTE BLANCHE recently carried out a bit of old fashioned consumer investigating and reporting. They do it quite often, but what made this story noticeable to me as an old hack was the fact that in days gone by, that story was a specialty of the now-defunct Rand Daily Mail newspaper.

The programme had taken four cars to the AA technical people, had them carefully assessed for problems, actually created a few problems for the cars that a mechanic ought to pick up, and then had taken them for a service at regular service stations.

Some R2000 later (on a couple of the cars) the deliberately placed problems had not been detected and for the most part real problems had not been adequately dealt with either. In some areas faults that did not exist were repaired at great cost.

The programme should have alerted car owners to the potential for being ripped off on regular services – and while most of us sanguinely accept that this will happen, action can be taken. Carte Blanche's remedy was to air the programme. But for you and me it is less easy and at times we would rely on the media to draw attention to a problem.

But where have all the consumer journalists gone? Actually, not far. Some, like me, have gotten older and moved onto to different things. Some famous names have changed course slightly but are famous in other ways – like Gwen Gill, the Sunday Times' social columnist who used to be its consumer columnist. Radio, too, offers many stories that are essentially consumer stories, but tend in the scheme of things to be less well-researched with less time spent on the outcome.

Consumer journalism has taken on new forms and is to be found in new places. Carte Blanche is one of those programmes which often takes up an issue aggressively for consumers. Several tabloid papers like the new Daily Sun and the Sowetan take up issues for their readers, many of which are old-fashioned consumer complaints. Beeld, the Sunday Tribune and the Witness in Pietermaritzburg have consumer columnists who sometimes go into an issue in depth.

What is missing, however, is the type of consumer journalism which began with the Rand Daily Mail – and died long before the Mail died. This would be the isolating of problem likely to affect many people and the determination to get to the bottom of it with good research and an editor willing to risk advertising and law suits.

Journalism, like other spheres of life in this country, has changed and consumer journalism along with it. Not all the changes have been useful to readers (listeners, and viewers too). News media, however, rely on the public to point out potential stories to them. And journalists in turn, should take the time to build up relationships with the myriad of new consumer groups and regulators in local and national government where a stash of really good stories sits.

What is missing is the type of consumer journalism which began with the Rand Daily Mail – and died long before the Mail died. This would isolate a problem likely to affect many people and would get to the bottom of it...

Looking after customers – it's about Ubuntu

Voice from the township

By Kitty Duma

WHEN ONE IS TALKING to friends and relatives generally, one gets the impression that something needs to be done about the services that customers get – and it has to be done immediately. The kind of service one gets in shops, hospitals, traffic departments, Department of Home Affairs, restaurants and many other places that deal with the public, leaves a lot to be desired.

There's a common thread that runs through all the stories I have heard and have personally experienced. The common thread is "attitude." Most employees serving the public have one nasty attitude. One often wonders why these people

have taken on this job, if they don't want to work with the public. One wonders why it is so difficult to be courteous to customers. One wonders how much money is lost in sales, because so many customers simply decide: "I'm not buying then, if that's the attitude I get."

I visited a hardware store in Roodpoort once, looking for a repellent for ants. When I entered the store, there were four white assistants behind the counter. I was ignored. Then I saw the shelf I was looking for, and proceeded to look for a suitable product. The black woman who was dusting the shelves when I came in, asked what I was looking for. I told her and continued to read the different bottles that were there.

I noticed that she did not move away, but stayed there with me, although she was of no help to me. I then asked why she was watching me. She told me that she was told to watch black customers when they came in. She said if she did not do so she would lose her job. I decided, "I'm not buying here." As I was leaving, one of the desk clerks asked if I had found anything. I told him I was not about to buy from such a place.

Recently, my daughter went to a pharmacy. She saw some items on sale that were marked R20.00, stacked in a bin. She picked out nail polish. When she got to the cash counter, double the price came up. She then informed the cashier that she should remove the item from

her purchases. The cashier with the "attitude" told her she had to buy it first and then proceed to another desk to get her refund. After a long argument, the cashier decided to call the supervisor. One wonders, did she know how to do this, or was she downright nasty?

My family sometimes eats out. Invariably, the waiter showing us to our table, will relegate us to a table next to the toilet, or kitchen, or near the doorway, even if there are other available tables. Only when we complain will we get a good table. If we complain to the manager, sometimes there's a ready answer that the other tables are reserved. When we have time, or when we are very hungry, we will test it out and eat. Guess what? No one

ever comes to those 'reserved tables'.

When I travel by plane, for instance, the booking clerk automatically seats me near the toilet, on the wing, or right at the back. If I challenge them, a better seat all of a sudden pops up. I wonder, why didn't they offer me the best available seat to begin with?

We are now in the eleventh year of our democracy. In a lot of places, apartheid still raises its ugly head. Also, one is also faced with the lack of training among most employees. A holistic approach needs to be taken to improve customer service in most public and private places of business. After all, customer care is about "Ubuntu – Batho Pele."

Government to support consumer activism?

By Lynda Loxton

FOR A WIDE VARIETY of reasons, consumer activism has never been a strong point among South Africans, but government is now considering various ways to change that.

In late 2004, it gazetted a very ambitious draft strategy document, or 'Green Paper' (see article below), for a new consumer policy framework. This envisaged a range of education programmes to beef up consumer awareness, backed by a new national consumer regulator, a consumer tribunal and consumer affairs courts.

When briefed on the Green Paper by Department of Trade and Industry (DTI) officials, parliamentarians expressed concern that all it would do was create another impenetrable layer of bureaucracy that would be of little or no help to ordinary – mostly illiterate, poor and historically disadvantaged South Africans – who had been kept out of the mainstream of the economy for decades with little or no redress for shoddy goods and services.

The MPs were also worried about whether the planned "legislative overkill" might not be just too much for the officials at the DTI to cope with, given their limited resources – both human and financial.

Members had been much more in favour of the policy's focus on strengthening non-governmental organisations.

This would make consumers, especially those in the rural areas, more aware of their rights and able to campaign against unfair consumer practices.

At the same time, members said, businesses should be encouraged to develop and adopt voluntary programmes to respond to consumer needs and deal with complaints more systematically and effectively.

Officials took these comments on board but insisted that there was still a role for government in repealing a number of existing laws and amend others. This would, amongst other things, lead to:

- A ban on misleading advertising and selling practices,
- Unfair terms on consumer contracts, and
- The abuse of private and personal information.

Government would also have to pay special attention to:

- Improving product safety,
- Strengthening the role of the SA Bureau of Standards, and
- Holding manufacturers and services providers liable for the quality of their products or services.

This would include parastatals that provided services such as electricity and water, as well as the public sector as a whole. The officials are due to appear before the portfolio committee on trade and industry again early in 2005 to report

back on public comment and how the officials now saw the new laws shaping up.

During the festive season, however, the department also focused its attention on the public's propensity to fall into debt, often to unscrupulous loan sharks who charged excessively high interest rates. The DTI's deputy director-general in charge of the corporate and consumer regulation division, Astrid Ludin, said many consumers would be trying to get credit as Christmas approached "to satisfy their spending needs".

Some would not be able to get further credit because they had been 'blacklisted' by credit bureaus and might be tempted to "turn to companies advertising the ability to remove or clear one's name from the 'blacklist' in the credit bureaus for an upfront fee" – even though this had been outlawed in 1998," said Ludin.

"The regulation stipulates that companies may only accept payment once the service of improving one's credit rating or clearing an adverse listing from the credit bureaus has been performed," she said.

"The decision to ban the service was the result of an investigation by the then Business Practices Committee, now called the Consumer Affairs Committee, following numerous complaints from consumers alleging that their credit records were not improved after having paid the required fees by credit repair

DO YOU NEED TO BORROW MONEY?

Borrowing money may sound like the best way out of a financial crisis, but if you are not careful you may find yourself in a worse position than before.

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- ☞ Make sure you can afford the repayments.
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- ☞ Do not sign any blank documents.
- ☞ Demand a copy of your signed contract.
- ☞ Do not borrow more money than you need.

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Call: 0860 100 406

entities claiming to be able to do so," she said.

Ludin said that consumers had the right to dispute inaccurate credit information. This could be done by writing a letter to the credit bureaus "disputing the incorrect listing and providing any pertinent information and copies of all documents such as receipts and account statement to demonstrate the error.

"The credit bureau is then expected,

at no fee, to investigate, modify and/or remove inaccurate information and should include a statement about disputed information in the consumer's credit record. In the event that the credit bureau fails to resolve the matter consumers can lodge a complaint with the Credit Information Ombudsman at 0861 662 837."

Lynda Loxton is a Cape Town-based writer for the daily Business Report, part of Independent Newspapers.

Great words – now let's see some action

Last year the government published a Green Paper – a public discussion-starter – on what it wants to do about giving consumers a fairer dispensation. Here's what they said, and how the NCF responded

■ Government says: Consumer protection efforts have failed to deliver

Over the last decade, laws have been introduced (including provincial Consumer Affairs legislation, the new Competition Act and disclosure regulations), but the Green Paper suggests that these measures have failed. It says: "These developments have ... proven insufficient to deal with contemporary and emerging challenges facing consumers."

Our view:

The NCF would agree that many of the laws (and most of the institutions) that are meant to protect consumers are indeed not working. But the Green Paper does not suggest why not. It only states that "there is no overarching consumer law", as if this is the main reason why previous policies have not delivered.

The NCF does not believe that this is the reason. Another law, even an overarching one, will not solve the

inability of existing policy and institutions to deliver.

■ Government says: Consumers should be heard

"... it is important that consumer champions and advocates be given the opportunity to be heard."

However, "very few consumer NGOs have been able to significantly engage government and regulators on policy issues relating to consumer welfare in general."

We say:

Quite right.

■ Government says: Consumer NGOs are too weak

The Green Paper says that South Africa's policies since 1994 have focused mainly on development issues. This, however, "did not incorporate an explicit focus on issues relating directly to consumers. As a result, the few specialized consumer

NGOs that had emerged since the early 1990s remained with tight budgets and severely limited capacity."

And here's the rub: "The dearth of consumer advocacy can largely be attributed to the lack of funding for such activities and a regulatory environment that does not provide clear rights to consumers."

We say:

Most foreign donor funding has been channelled away from NGOs since 1994, and towards government itself. This places an added obligation of government to help build the financial and organisational capacity of consumer NGOs so that they can effectively contribute.

■ Government says: SA needs more regulatory institutions

The Green Paper suggests an ambitious plan "to put in place a new set of independent regulatory institutions" – essentially a government-funded, national

Consumer Commission and a Consumer Tribunal.

We say:

The direction that this suggests can only be more costly and inefficient for consumers, who at the end of the day must pay not just for their consumables but for their government services too.

Members of Parliament have already warned department officials "to guard against setting up a whole new and expensive bureaucracy", and the NCF is wholly in support of this sentiment. Rather, trade and industry officials were encouraged by the portfolio committee to "draw in civil society, fund non-governmental organisations with community outreach and skills, and get them to start educating people in a more sustained way about their consumer rights."

■ Government says: Consumers must be told about Batho Pele

"... the Batho Pele [People First] mile-

stones for progressively increasing access to basic services ... must be published and guidelines must be provided to the public."

Further, "...information and education is particularly important in the South African context, as the majority of South Africans were ... subjected to systematic under-investment in education. As a result, it is important that consumers have easy access to information and that this information is presented in an understandable form."

We say:

Consumer NGOs are a valuable resource for government in meeting its Batho Pele requirements. At local level,

NGOs can be used by government to assist with communication and dissemination of information – a task that is particularly difficult in poorer areas.

Borrowing from a micro lender? Know your rights!

MICRO LENDING IS a huge business in South Africa today, with thousands of micro loans being made to consumers every day. Since 1999, however, government has tried to protect borrowers by placing some controls on micro lenders, and giving consumers important certain rights.

The Micro Finance Regulatory Council (MFRC) regulates the activities of the micro lending sector and ensures that consumers are protected from unfair lending practices in terms of the Usury Act Exemption Notice of June 1999. Micro lenders are required by law to register with the MFRC in order to lend in accordance with the Usury Act Exemption Notice.

Your protection

Disclosure: The lender must provide the borrower with the loan agreement setting out the loan amount, annual rate of interest, the interest charged in rands and cents, total amount repayable, amount and number of installments, nature and amount of any insurance, and penalty interest in case the borrower defaults.

The lender must explain essential parts of the contract in a language best understood by the borrower before the contract is signed. This is to ensure that the consequences of the agreement are understood.

Confidentiality: The lender may not, without the consent of the borrower, give out any confidential information given to him when applying for a loan. The lender should give the borrower a 28 days notice if he intends to forward information to any credit bureau.

Cooling-off period: The lender should allow for a three-day cooling-off period after the loan has been granted, within which the borrower can cancel the contract and return all the money that has been advanced to him/her. The lender cannot charge anything before money has been advanced/accepted by the borrower

Early settlement: If the re-settlement period is not longer than 12 months, the borrower can settle the outstanding amount in one payment without giving the lender a notice. If the repayment period is longer than 12 months, the lender may require up to 60 days written notice, but only if stipulated in the agreement.

Remember:

- The lender must be registered with the MFRC, so look for a valid registration certificate and a sticker bearing the MFRC's logo at the lender's business premises.
- The lender must never keep your personal documents, such as your identity document (ID), bank cards or personal identity number (PIN).
- Loans cost money, and micro loans are expensive. Make sure that you can afford to repay the loan. Micro-lenders are required by law to assess your ability to pay back the loan and still meet your necessary living expenses.
- Don't sign a contract that has blank spaces. The lender might add additional terms into these spaces without your consent. Draw a line through any blank spaces and sign next to them.
- Demand a copy of your loan contract – this contains all the details about the loan, including the total amount repayable.
- Compare interest rates and other costs from different micro lenders - always ask what the total monthly payment is, including insurance and all other charges. Avoid paying over too many months; it will cost you more in the end.
- Don't borrow from one money lender to pay another. This will only put you into a downward spiral of debt.

The lender must explain essential parts of the contract in a language best understood by the borrower before the contract is signed. This is to ensure that the consequences of the agreement are understood

QUICK GUIDE TO REGISTERED AND UNREGISTERED MONEY LENDERS

	REGISTERED LENDERS	UNREGISTERED LENDERS
<i>Who controls them?</i>	Micro Finance Regulatory Council (MFRC) 0860 100 406 (Toll-free number) or (011) 647 4400 Address: PO Box 2694, Houghton, 2041	Department of Trade and Industry, National Inspectorate National Inspectorate, Consumer Affairs Tel: (012) 310 9569
<i>How will I know if a lender is registered or not?</i>	A MFRC registration certificate and registration number will be displayed.	
<i>How much interest can they charge?</i>	No interest rate limit. They can charge as much interest as they like.	The interest rate limit is set by government at 24% per year (for loans after R10,000) and 21% (for loans under R10,000).
<i>What else can I be charged for?</i>	Insurance policy (optional), and any other costs – as long as they are specified in a schedule before entering into an agreement.	Insurance policy (optional).
<i>How much money can I borrow?</i>	Up to R10,000.	Up to R50,000.
<i>What must the loan agreement (contract) contain?</i>	The loan agreement must be approved by the MFRC. It must include: <ul style="list-style-type: none"> • The loan amount in rands and cents • The total amount payable in rands and cents and the current interest rate over the repayment period. • The total amount (in rands and cents) that you will be charged for the loan over the repayment period and the elements that make up this total charge. • The annual interest rate for the loan, whether fixed or variable, and, if variable, how it may vary. • The nature and amount of any insurance, including the name of the insurer. • The penalty interest and additional costs that will be charged if payment is not made. • The instalment amount in rands and cents (including interest) and the number of instalments. • The repayment period in respect of money lending transactions. 	The loan agreement must meet certain conditions. It must include: <ul style="list-style-type: none"> • The cash amount received • The principal debt (includes cash amount plus stamp duties, insurance) • The annual interest rate charges (All the above charges must be shown separately) The amount and date on which the instalments must be paid. Any sum deducted from the loan amount reduces your principle debt any finance charges may only be levied on the amount actually paid to you or paid on your behalf. Your copy of the contract must be received within 14 days.
<i>I want to cancel my contract. Can I do this?</i>	This can be done within three days.	This can only be done within a period not exceeding 90 days if you have agreed to this before you sign the contract.
<i>How long before I have to finish paying?</i>	Maximum of three years or 36 months	According to your agreement.
<i>I want to pay back the money owed in full before the due date.</i>	For loans less than twelve months, you can settle the outstanding amount in one payment without penalty or notice.	Borrowers have ninety days to settle the debt in full unless a shorter period has been negotiated before entering into the agreement.
<i>Statements</i>	You may have to pay the lender to get a statement.	You should get a statement every three months.
<i>National Loans Register</i>	Available from registered lenders	Not available
<i>What should I do if I am not happy?</i>	Micro Finance Regulatory Council (MFRC): 0860 100 406 (Toll-free number)	Write to the Department of Trade and Industry, or the Consumer Affairs office in your province.
<i>What information do I need when I complain?</i>	The name of the money lender, the company name, your contract, your ID number and any receipts of payments that you have made.	The name of the money lender, company name, your contract, your ID number and any receipts of payments that you have made. Include the money lenders' details as well as a description of the problem.

Complaint or enquiry?

Phone the MFRC: 0860 100 406
info@mfrc.co.za

Recipe for a building disaster

You've heard all the horror stories of what builders can do to unsuspecting consumers; now find out what you must do to make sure you don't become one of them

AVOID THESE 11 COMMON MISTAKES – BASED ON THE ADVICE GIVEN BY THE GAUTENG MASTER BUILDERS ASSOCIATION – AND YOU'LL GET THE JOB DONE RIGHT WITH AS LITTLE PAIN AS POSSIBLE.

Your first mistake:

Take the lowest quote you can find.

Admit it – it's all about saving a few rands so you can afford the heated towel rail in the bathroom or the fancy Italian tiles.

Don't do it! The Gauteng Master Builders Association (GMBA) advises:

- Make sure that you ask at least two contractors to quote on the work you want done.
- Compare the tenders to ensure that both contractors have priced all items.
- Then evaluate the tenders by comparing all prices against each other to find out why one tender is cheaper than the other.

Your second mistake:

Just sign the papers and get the work started.

The dry season is coming to an end and you've left your plan too late. You want to get the building finished by your wife's birthday so you can have the whole family over to celebrate. But it won't get done unless you start immediately...

Don't rush it! The GMBA advises you not to sign any documents before you are ready to award the tender. (See point three)

Your third mistake:

Get a rough idea of what the builder will do and let him get on with it.

You're so busy, and you don't have a technical mind – so it's easier to let the expert do what he wants.

Don't ignore the detail! The GMBA advises that you ask for detailed tenders.

- Ask the contractor to tell you in detail (in his tender) what materials he will use and where he will use them. This is to avoid arguments later on by preventing either party from taking unilateral decisions.
- Contractors will price some items provisionally. This is generally because they are unsure of the quantities involved, or it might be to allow you to choose some other products.
- Make sure that the tenders you are considering all (or both) allow for the same provisional quantities and products.

Your fourth mistake:

Just sign the contract that the builder gives you.

All this legal stuff is such a pain – and you don't understand it anyway. It's so much easier just to sign what he gives you so that he can get going on the job.

- Don't just sign it – it might be biased. The GMBA advises that:
- If a contractor provides his own contract, you can be reasonably sure that the wording is biased in his favour.
- You can buy standard building contracts from the GMBA, which protect both parties.

Your fifth mistake:

Not reading the contract.

If this sounds really stupid, think about the last time you read a contract from beginning to end. Have you ever? (This is often not your fault, of course; some contracts are so complicated that no consumer could be expected to understand them. See our article on the use of plain language, on page 6. Consumers need contracts they can understand.)

The GMBA says:

- It is amazing how many people sign contracts without reading them and without being aware of their obligations.
- If the contract is full of legal words and phrases that don't make sense, find out from a consumer help-line or from the GMBA (details below). You are not forced to sign anything you don't understand.

Your sixth mistake:

Get any contractor off the street – as long as he's cheap.

A building job is not something you do every day, so you're unlikely to know one builder from another. How bad can they be?

The GMBA says:

- Don't appoint a contractor without checking his references.
- Talk to the people who recommend him.
- Don't just phone them – go and see the work he has done for them. Check whether the quality suits you and find out how the contractor treated his clients.

Your seventh mistake:

Paying a deposit without any security

The builder says he needs money to start buying material, etc. This is not uncommon, because many builders are small businesses without the capital to spend on the materials and labour they need for each new job. But how do you know what will happen to your deposit?

The GMBA says:

- Don't pay a deposit without some form of security.
- Be wary of a builder's request for a large deposit up front.
- Make sure that the contractor provides security against absconding with the money.

Your eighth mistake:

Handing out money to the builder whenever he asks for it

If your contract is not clear, and your payment system is not properly planned, you will end up making payments to the builder whenever he runs out of this or that material, or whenever he needs to pay his workers.

The GMBA says:

Don't pay whenever the contractor requests it.

- Payments should be scheduled in the contract. Beware of making payments outside of that schedule.
- A record of all payments made at any time should be kept.
- Get the contractor to sign a receipt for each payment.

Your ninth mistake:

Trying to keep a mental note of all decisions and activities.

The GMBA says: Write down a record of everything that goes on.

- A full record should be kept of date and time of all decisions reached between yourself and the contractor.
- Remember, it is normal for decisions to be taken during the contract, to change original specifications.
- Before the contractor implements any changes, make sure he has given a price (the additional cost or the saving) for the change, and be sure that you keep a tally of all additional costs.
- You will be amazed at how quickly these extras can mount up in value and you may soon find them unaffordable.

Your tenth mistake:

Negotiating 'in good faith' without documentation

The GMBA says:

- All decisions should be in writing and priced and accepted by you before the contractor carries them out. (Refer back to mistake number 9!)

Your eleventh mistake:

Accepting poor workmanship

By the time each part of the job is done, you are so tired of the whole experience that you might just accept anything. All you want is to get rid of the builders, the machines, the dust and the inconvenience.

Stop! Don't do it – rather get it right.

The GMBA says:

- If you are unhappy with the quality of any portion of the work, insist that it is rectified immediately and not left for the plasterer or the painter or somebody else.

Thanks to the Gauteng Master Builders Association, based in Midrand, for this useful advice.

For useful advice...

Gauteng Master Builders Association
Tel (011) 805-6611
gmba@mweb.co.za
www.gmba.org.za

Having trouble with any of these? Do something about it!

Banks

The Banking Adjudicator,
Tel 0860 800 900

A furniture retailer

The Furniture Traders Association,
Tel (011) 789-6770

A building company

The National Home Builders Registration
Council, Tel (011) 348-5700

A motor vehicle seller

Retail Motor Industry Organisation,
Tel (011) 789-2542 or (012) 348-9311

Misleading advertising

Advertising Standards Authority of SA,
Tel (011) 781 2006

Customer care – does anyone give a damn?

By Chris Moerdyk

Doesn't it irritate the daylight out of you when you walk into a store or company reception area to find trite little chunks of corporate homily nestling in neat little frames all over the wall?

Extracts from carefully rehearsed profundities the big boss came out with at staff meetings. Things he picked up from a "How to Manage your Business" book his wife gave him yonks ago when he graduated from salesman to sales manager.

Cute little saying like; "Make Your First Impression Last," and "We Care for Our Customers," which are usually strategically misplaced behind myopic receptionists with whom one has to get within a hair's breadth of physical abuse in order to get some attention.

They are also found in companies where the powers that be have given up the unequal battle of trying to instil some service ethic into the ranks and, as some sort of last gasp motivational fling,

plastered the walls with what can best be described as commercial contaminants with the hope that they will infect visitors to be point where their brains will be dulled into believing that every man jack member of staff would rather die than not care for customers or make rattling good first impressions.

And, incredibly enough, trying to perpetuate these totally transparent principles is becoming more and more a part of business strategy despite the fact that consumers are becoming less and less tolerant of words and more and more insistent on action.

Now that's not to say that all those hackneyed phrases don't have merit.

Indeed they have immeasurable merit. But only if those who claim to embrace them have opened their minds sufficiently to really absorb the ethos. A process that does not automatically happen as a result of a once in a blue moon pep talk from the head honcho and a wall full of corporate graffiti.

Today's consumers, customers and clients have largely progressed well beyond that stage of development which is based on the notion of one human being genuinely believing that another is superior simply because the former is trying to flog something to the latter.

It is sad that concepts like "The Customer is King" and "We Care" and "You are important to us" have been done to death. They are all extremely valid concepts. Concepts that work. Sound business strategy.

It's just that consumers simply don't believe them anymore. Not only that, but those who should be practicing these principles, don't believe them anymore.

And the reason is because most companies have seen all these things as quick fixes.

Fixes that have been introduced into the corporate structure with massive fanfare, with managers "taking ownership" right, left and centre, with CEO's committing themselves to the cause – rah,

rah, rah, wave the flag, the customer is king, let's hear it for service and all that!

And a few weeks later another great plan lies discarded among heaps of failed "towards excellence" projects, half-arsed total quality management programmes and a host of other great ideas that for brief moments flew high, wide and handsome only to crash hopelessly in a sea of apathy because they were not incessantly driven from the top.

Customer service, upon which all companies will survive or flounder in the future, is not something one can teach.

Days, weeks and even months of browbeating lectures, threats and rewards cannot inculcate into anyone the real meaning, the real benefits of service.

It is only by experiencing and suffering fairly seriously from lack of service that one can possibly understand what it is all about. And once that understanding is there, accountability and ownership need to be applied to make sure it stays there.

Concepts like 'The Customer is King' and 'We Care' and 'You are important to us' have been done to death... consumers simply don't believe them anymore

Chris Moerdyk is a media and marketing analyst and Fellow of the Marketing Federation of SA and Institute of Marketing Management. He also writes the weekly Marketing Column in the Sunday Times and is a board member of the Media Development & Diversity Agency.

Good or bad experience to report?

Write to Consumer Fair Mailbag at:
PO Box 4487, Halfway House, 1685
Email: ncf.consult@ananzi.co.za
Fax: (011) 403 1869
Or phone: (011) 403 7001

Is your sex life going up in smoke?

Cigarette smoking – still viewed by many as a symbol of virility and sexiness – has been found to have exactly the opposite effect on men: impotence



This is not a recent discovery, but few people seem to know that smoking can put an early end to your days as a red-hot lover. In a US study over a decade ago, half of a sample of about 2000 male smokers reported sexual impotence. The average age of the sample was just 38 years old.

The cause is quite simple. Smoking causes a hardening of the arteries (a con-

dition called arteriosclerosis), restricting the flow of blood to the organs. When arteries can't get enough blood to the heart, you have a heart attack. When they can't get enough blood to the brain, you have a stroke. And when arteries fail to get enough blood to the penis, you can't have an erection.

Studies show that after just two cigarettes, the pudendal artery (the most im-

portant artery for the penis) shrinks in diameter and the penile arteries close almost completely. This is bad news, as the penis is made of erectile tissue which needs plenty of blood to do its thing.

Evidence published in Lancet shows that smoke inhaled from cigarettes damages a man's sperm, affecting his ability to father children. Cigarettes contain radioactive particles, and these have been identified in the testicles of smokers. It has been found that smoking reduces the number and the quality of sperm – so there is a lower chance of the sperm making it all the way to the uterus to fertilise an ovary.

There is also evidence that that smoking causes genetic damage, as an increased frequency of chromosomal abnormalities has been found in the blood cells of smokers. Tests show that the urine of smokers contains a substance that can mutate cells in bacteria and induce 'chromosomal aberrations'.

For more information...

National Council Against Smoking
Tel: (011) 643 2958

WORLD UNITES AGAINST SMOKING

THE NEED TO CONTROL smoking seems to be the one issue on which the whole world agrees. In terms of a new global agreement, there are now minimum standards for how cigarettes are sold, how they are advertised, where smoking is prohibited, how consumers are warned of the dangers of smoking, etc.

At the end of last month (February 2005) the Framework Convention on Tobacco Control (FCTC) became the first international treaty on health – nearly two years after it was approved unanimously by all 192 member countries of the World Health Assembly.

The convention will help standardise laws across the world so that there is better control of advertising and cigarette sales from shops, for instance.

South Africa played a leading role in uniting Africa and formulating the convention, and parliament will hopefully have ratified it by the time this newspaper is published. The process is that the convention gets signed by country representatives in the World Health Assembly, and then has to get ratified by the legislative body in each country.