

Consumer Protection With Respect to Deceptive Advertising in China and South Africa

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Abstract: *The paper has tried to point the consumer protection mechanism being put into the place by China and South Africa. The various rights which the consumers enjoy in these countries with respect to the purchases have been discussed in detail and it has been analyzed if the countries have managed to put a proper consumer grievance system in place.*

Keywords: *consumer rights, consumer protection, consumer courts, consumer forum, dissonance, misleading advertising, advertising, false claims*

I. INTRODUCTION

Consumer Protection has never been discussed before, the way its being scrutinized in today's times. With the consumer being empowered to voice his opinion and concerns more than ever, the companies face the uphill task of ensuring maximum consumer satisfaction and to readily deal with any dissatisfaction being experienced by them.

The dissatisfaction which makes the consumer wary of his purchase decision after the purchase has been done, needs to be looked after and handled by the seller discreetly.

The purchase of any product is induced by the advertisements and the promotional activities which are carried on by the sellers. In a scenario like this, the consumer might believe that his choice was largely influenced by the advertising made and he might often worry about the negative attributes of the product he has purchased (Kassarjian and Cohen, 1965). Dissatisfaction experienced by the consumer is found to be inversely connected to post purchase dissonance that may arise from the consumer's fear of product failure (Sweeney et al.,2000).

The advertisements often paint a picture of the product's performance in the minds of the consumer and when the product fails to live up to the expectations, it fills the buyer with anxiety (Loudon & Della Bitta, 2002). Thereby many countries have formulated consumer protection mechanism to help the customer enjoy maximum out of their purchase.

Advertising regulation and Consumer protection in China

Law of the People's Republic of China on Protection of the Rights and Interests of the Consumers was enacted in 1994 to protect the lawful rights and interests of the consumers, to maintain the socioeconomic order, and to promote sound development of the socialist market economy.

When the Chinese consumers, for the need of living consumption, purchase and utilize commodities or accept services, their rights and interests are protected under this Law. The act also makes it mandatory for the sellers that they abide by the quality standard being set up by the governmental authorities under this act with regard to the production of the goods in the market. (1994)

Rights of the consumers under the law

- While making a purchase of a certain good, the consumers enjoy the inviolable right of the personal and property safety. This indicates that while he is making a purchase of any commodity for his consumption and utilization, he should be allowed to take all the required steps to protect himself and his property.
- The consumers have the right, according to different situations of the commodities or services, to demand the operators and sellers to provide such relevant information as the commodities' price, origin of production, manufacturer, purpose, performance, specification, grade, major compositions, date of production, term of validity, certification of inspection, operation manual, after-sale service, or the services' content, standard and charge.
- The consumers enjoy the right of making the purchase from the seller of their own choice. All the sellers and manufacturers should present their products in front of the sellers through promotions and advertisements but the consumers reserve the right of choosing the goods of their own choice.
- The consumers enjoy the right of receiving fair dealings from the sellers. The sellers cannot impose forced dealings upon the consumers and they can deny any forced dealings on behalf of the seller.

- A consumer who suffers injury or damage to the person or property in purchasing and utilizing commodities or accepting services enjoys the right to seek compensation according to law.
- In case the consumer feels that he has been wronged by the seller, the consumer can take legal action against him as per the prevalent laws and can also take help from any social organisation in his pursuit.
- The consumers enjoy the right to obtain the knowledge and information about consumption and the protection of consumers' rights and interests.
- The consumers shall exert themselves to master the knowledge and operation skills on the commodities or services they need, utilize the commodities correctly and heighten their self-protection consciousness.
- The consumers enjoy the right to carry out supervision over the commodities, services and the protection work of consumers' rights and interests.

Law of the People's Republic of China on Protection of the Rights and Interests of the Consumers also underlines the duties and the obligations of the seller mentioned as follows:

- The sellers shall solicit opinions from the consumers on the commodities or services they provide and subject themselves to supervision from the consumers.
- In regard to the commodities or services which pose potential hazard to personal and property safety, the sellers shall make true to fact descriptions and clear warning to the consumers, specify and label the correct method in utilizing the commodities or accepting services and the method of preventing the occurrence of injury and damage.
- The operators shall provide true to fact information about commodities or services to the consumers and may not make misleading false publicity.
- The shops shall label clear price on commodities provided.
- Where the sellers use advertisements, product descriptions, sample products or other means to indicate the quality status of the commodities or services, they shall guarantee that the actual quality of the commodities or services they provide shall comply with the indicated quality.
- The sellers may not insult or defame the consumers, may not search the body of the consumers and the articles they carry, and may not infringe upon the consumers' freedom of choice (1994).
- If the consumer has already made the purchase and is not happy with the performance of the goods, he can return them to the manufacturers.

Consumer Protection in South Africa

The South African government believes that the consumers should be provided with fair grounds and dealing as they go around to make their purchases. As per the judicial laws in South Africa, the consumer rights are those rights which help to protect the consumers from the wrong doings of the sellers and safeguard their interests during the purchase transactions. The South African National Consumer Union (SANCU) has documented eight key rights and they are as follows:

The right to be heard : It is a basic right of every consumer that if he feels that he has been cheated by a seller or manufacturer, then he can voice his complaint or his dissatisfaction to them and the sellers are bound to hear and attend their complaints.

The right to safety: The consumers have the right that they should be made aware about any health hazards or any injury that could be caused while using the product or while handling it in a wrong way. Moreover, this right also empowers the consumers to be guarded against any kind of potential physical threat while making a purchase transaction.

The right to redress: If the consumer feels that he has been duped by the seller, then in case of dissatisfaction, he can take legal recourse against the seller and file a legal complaint against him.

The right to a healthy environment: This right empowers the consumer to enjoy such physical environment where they can make free purchases without any coercion on behalf of the seller.

The right to be informed: Consumers has the right to be given all the information they require about a product or service. For example they have the right to request a list of ingredients that go into making a particular product that is being sold, detailed information of a contract that they might sign, etc.

The right to choose: Consumers must insist on a variety of products and goods to choose from based on personal taste, quality or price. Competition in the market place allows you to buy what suits your particular circumstances.

The right to consumer education: Consumers have the right to demand education in consumer affairs. Both the state and private sector have a role to play in this.

The right to satisfaction of basic needs: Consumers have the right to basic goods and services which guarantee survival. This includes adequate food, clothing, shelter, health care, education and sanitation (Howard Bedler, 2007).

Principles of Consumer Rights

- Protects the consumer
- Service ethics
- Products / services are fit for use
- Rights violations

Protects the consumer: South Africa has eight key consumer rights that have been developed based on the United Nations Guidelines for Consumer Protection 1985. These eight key rights will be discussed in greater detail under the section titled consumer rights in South Africa. These rights were developed and implemented in order to ensure that consumers around the world are treated fairly and provided just treatment by sellers.

Service ethics: Most companies around the world today have based their current customer care practices around consumer rights. For example establishing customer satisfaction surveys and customer relationship managers to deal with failures in service, ensuring that their products or services are quality assured, ensuring that customer can shop within a safe environment and also educating their customers about the products or services that they purchase. These are just a few of the key services that companies have developed in order to make the experience of the customer with the company, an enjoyable one. If there is a failure in anyone of the above mentioned services, then there is a failure in service ethics.

Products/services are fit for use: The consumer has the right to purchase a product that is fit for use and if there are any defects, they can return it to the supplier. All products that are manufactured should have a quality assurance sign off on every product to ensure that it is in working order prior to leaving the manufacturing facility. Service on offer should be quality checked by a quality management function by means of conducting satisfaction surveys, auditing data captured by employees, conducting call assessments, etc.

Rights violations: Any consumer rights that have been violated by a provider of a product or service should be brought to the attention of the relevant authority that governs that particular type of supplier. There are a number of social organisations working in South Africa too who make sure that the aggrieved consumers get a fair opportunity to voice their complaints against those seller who try to dupe them.

Consumer rights forums

Most companies have a direct contact through organisations such as the South African National Consumer Union for consumer related issues which can be used to report consumer rights related issues. There are various forums that can be used by the consumer to report consumer rights issues. For example as mentioned on the previous page, most business sectors have a representing Ombudsman who will investigate the matter further. There are government bodies at national and provincial levels that also investigate cases of consumer rights failures. There are also several media based consumer advice contacts available to the consumer. It is the responsibility of the consumer to find out what organizations govern what industries and record this information for future use in case they require their help in solving the purchase grievances and his purchase related issues with respect to any seller or firm.

The following things have been made mandatory by the South African government to be followed by every seller and the manufacturer. A South African seller must adhere to the following duties.

- Ensure that all staff is trained to deal with customer care inquiries effectively.
- Listen to what your customer has to say and ensure that they are satisfied with the result of their query.
- Offer a money back guarantee on all products sold.
- Inform the client of warranties or guarantees and explain them to the client if need be.
- Ensure that your customers shop within a security managed environment.
- Just about every consumable product today already displays their ingredients. Any products that do not display ingredients must be addressed with the supplier.
- Provide copies of the consumer rights booklet which is obtainable from the SA National Consumer Union and display them in your store.
- If you are a member of the SA National Consumer Union, make your customers aware of this by means of putting up a notice that states this.
- Ensure that you have processes and procedures in place for dealing with returned goods and ensure that action is taken to source the reason why this occurred.
- Ensure that you have an elevated query management system in place.

II. DISCUSSION

Consumer Protection has been lauded as an imperative policy by law makers all over the world. The need of the working laws and machinery to protect the interests of the buyer in the market cannot be stressed enough. And nations like China and South Africa have conceptualized strong laws to help the customers battle out their purchase decisions effectively.

III. REFERENCES

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