

A big stick for errant retailers

Whilst retailers in South Africa are complying with the provisions of the Consumer Protection Act (CPA), there is a significant impact on the promotion expense in the organisation.

Implementation of new methods of promotions in order to be compliant has resulted in increased promotions expenditure of between 10 and 20%.

Retailers also incur added administrative costs since they have to carry more stock, even before they commence with a promotion, due to the restrictions placed by the CPA. They are unable to advertise the items on sale if they physically do not have the stock. For a small business, this could mean thousands of rand's worth of stock must be ordered, before the advertising commences, with the hope of the stock being sold. Businesses also incur added insurance costs to cover the loss and theft of stock.

They also need to continually find new methods of increasing their databases so that customers constantly view their promotions, resulting in additional promotional costs. Retailing is further impeded by the implied warranty, which allows consumers to return faulty goods and get the seller to repair it, replace it or get a full refund within the first two weeks. Returns to suppliers are costly to administer and it can be quite challenging for the retailer to track and provide feedback to the customer, since the entire returns process could



take several months to be finalised.

Retailers are having a hard time under the stringent regulations of the Consumer Protection Act (CPA) which restricts how they market themselves and approach customers.

The CPA has resulted in increased standards in all spheres of marketing and business practices to ensure that all parties that transact (suppliers,

importers, exporters, wholesalers, manufacturers and customers) are not compromised in any way.

Currently, the CPA gives content to consumer protection by providing for, amongst other things, protection against discriminatory marketing, the right to restrict unwanted direct marketing, the consumer's right to a cooling-off period after direct marketing, the right to information in plain and



understandable language, the disclosure of the price of services, the prohibition against unfair and unjust contract terms, and the need for written consumer agreements.

It was imperative for the CPA to be enforced to assist historically disadvantaged persons to fulfil their rights and to promote full participation as consumers. They did not have access to specialised knowledge and did not receive the support of lawyers or specialists.

With significant levels of poverty and unequal distribution of income, high legal costs may have presented a barrier to justice. The more susceptible consumers are, the more protection is required.

The preamble of the CPA acknowledges the reality that many South African consumers are poor, illiterate and live in rural areas; are minors, seniors or other similar vulnerable consumers.

Previously there were distinct differences in terms of service delivery, quality and access to products that were offered to different segments of customers in retail business. Chain stores offered inferior quality goods to Blacks, at the same price

as superior quality goods. Banks made access to housing loans to historically disadvantaged groups difficult. Black customers were restricted from entering certain areas or from obtaining accommodation in certain places.

After the scrapping of Apartheid laws, customers were not prepared to settle for sub-standard goods and services. During the transformation, Black customers in South Africa have become more discerning. Even though many people in South Africa lived in rural areas, they also possessed cellular phones.

The impact of this factor caused a definite shift in the way marketing was carried out to cater for the needs of rural communities as well. The fact that the majority of the population was accessible daily via email and SMS, led to a change in marketing methods to capitalise on the fact that people were online at all times. Armed with more information, customers have become more sophisticated and demanding.

The CPA is multi-faceted and ensures that consumers are able to make informed purchasing decisions; that a variety of products and services can be accessed; that the marketing and selling practices are based on sound principles; have efficient redress; and are well-informed about their rights and responsibilities. The customer became the focus in the transaction and the balance of power no longer lies in the hands of the retailer.

By ensuring adequate standards of goods and services, the CPA has forced businesses to become more responsible in terms of providing such

services. The CPA now provides for a much broader mechanism to protect consumers and applies to all forms of promotions conducted by retailers.

Apart from the fact that businesses have to comply with the Act to avoid penalties, a competitive advantage can be gained. The competitive advantage is a by-product of trust and satisfaction from fair purchases which in turn results in consumer loyalty. Consumer loyalty results in more positive word –of-mouth referrals, leading to more consumer spending. Therefore, businesses that emphasise that they are CPA compliant will benefit from this Act. Businesses are indeed becoming more socially responsible and it is envisaged that consumers' perceptions and expectations of businesses' ethical behaviour will be vital determinants of market share and sustainable growth. If customers perceive a business to be compliant with all the applicable legislation, and are socially responsible, then the business is positioned better in the marketplace as customers want to deal with them.

The CPA actively promotes and propagates the ideal of Corporate Social Responsibility (CSR). By relating CSR activities with augmented customer value, businesses are able to achieve a competitive advantage. Ethical business practice means doing the right thing. An organisation's performance is no longer judged on profit alone. More and more emphasis is being placed on businesses to become better corporate citizens and to invest in making society a better place. A corporate is a legal entity recognised by law. It therefore has to abide by

statutory principles of corporate governance as prescribed by law. In terms of the CPA, companies are compelled to appoint a 'social and ethics' committee to observe and provide feedback on their undertakings regarding 'social and economic development', 'promotion of equality' and 'social development', especially in the areas in which they are based. These core principles overlap with the King 111 Report on Corporate Governance, which stipulates that 'social injustice has to be eradicated'.

The Companies Act of 2008 has also placed a significant amount of pressure on business practices. Businesses have to comply with best practises at all times in terms of ethical processes, ethical marketing and ethical products. Customers are very sensitive to ethics in business and will support only those businesses that are deemed to be transparent. Thus businesses need to adopt a changed focus in respect of the ethical aspects of the organisation's business practices. Triple bottom line, corporate governance, CSR and broad-based black economic empowerment (BBBEE) indicate a major change from the belief in previous eras that organisations are only in existence to make profits.

Businesses are indeed becoming more socially responsible and it is envisaged that customers' opinions and anticipations of businesses' moral stance will be critical factors determining sustained market share, viable growth and advancement. Responsible retailers and marketers want to understand and respond to society's expectations of what it means to be a responsible retailer or

marketer. It is important to consider sociological jurisprudence and to ascertain how the law impacts on businesses and the consumer. In essence, the CPA cannot function without anyone transacting.

Businesses are aware of the fact that consumers are beginning to reject products they regard as not being ethical or inferior, and businesses with a strong social responsibility structure are benefiting from being transparent and upholding strong values. The following compliance measures assist retail businesses whilst conforming with the CPA: 'consumer education', 'employee training', 'access to emergency funds', 'purchasing of insurance', 'customer consultants', 'quality-assurance', 'refunds, replacement and compensation'. Good ethical behaviour is noticed by customers, which encourages more support for good ethical brands and in turn increases sales and revenue. The idea undermining CSR is to "do good for the people and the planet without sacrificing profits".

It begs the questions: Is being CPA-compliant

right or wrong / good or bad for the customer and bad for businesses? Is it good for the greatest number of people? Does the CPA actively promote and propagate the ideal of CSR? Have businesses become CPA compliant out of duty or obligation?

Business now has a broader social as well as compliance role to play. It has been suggested that even suppliers within a company's supply chain ought to be CPA-compliant. Being BEE compliant on its own is a costly mission for businesses currently. To be "CPA Compliant" would certainly put added pressure on businesses throughout the year. There are so many facets to CPA compliance for businesses. What would the deliverables be? One would have to wait and see if this becomes a compliance pre-requisite. **SR**

