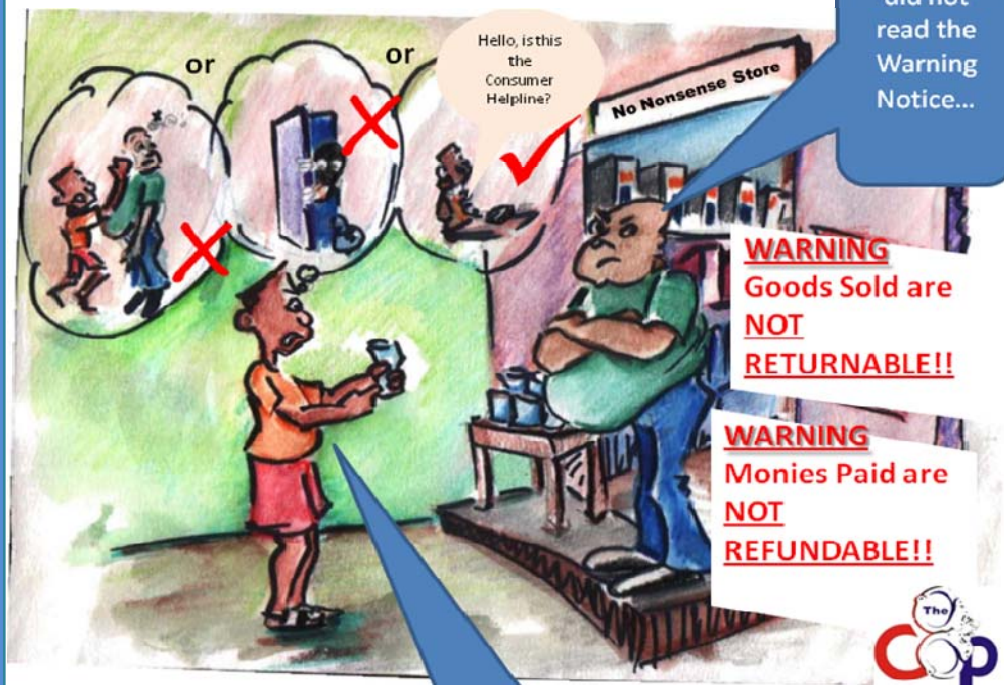


Working Paper: #4



THE CONSUMER
PARTNERSHIP
(GHANA)

consumer education is self-preservation



You definitely did not read the Warning Notice...

WARNING
Goods Sold are
NOT
RETURNABLE!!

WARNING
Monies Paid are
NOT
REFUNDABLE!!






You sold me a shoddy product. Refund my money or else...

CROSS THEIR HEARTS: BUSINESS-2-CONSUMER PRINCIPLES ON WARRANTIES

This Working Paper was prepared by Jean Lukaz with contributions from Gideon Kwabena Yeboah and Emmanuel Treku

Businesses must be accountable for the impacts of its decisions and activities on consumers and must always incorporate the interests of stakeholders [including consumers] whilst being in compliance with applicable laws and adhering to international norms of behaviour. Warranties may insure both the consumer and manufacturer or seller from [un]known defects but they may not exclude the latter from liability resulting from adverse effects of defective products on consumers. In championing their profit-making and other objectives, businesses should strive to adhere to principles of good business practice as well as consumer protection. Guidelines and principles are meant to assist businesses in acting in good faith and engaging in fair trade practices that would not result in consumers wasting their time, money and other resources; encourage businesses to deal in quality products and services, which result in costless warranties and increasing consumer satisfaction from satisfactory product performance; encourage businesses to act responsibly beyond legal compliance as a fundamental duty.

The principles outlined below detail how responsible business should be conducted in a manner that guarantees the satisfactory performance of their end products whilst respecting the rights of consumers with regards to warranties. The general principles on warranties are:






-  Ethical Business Practices
-  Respect for Consumer Rights
-  Respect for the Rule of Law
-  Social Responsibility
-  Respect for international norms of behaviour

ETHICAL BUSINESS PRACTICES

The Principle: A Business Should Behave Ethically at All Times.

A business's behaviour should be based on the ethics of honesty, equity and integrity. These ethics imply a concern for people, animals and the environment and a commitment to address stakeholders' interests.

A business should actively promote ethical conduct by:

-  developing governance structures that help to promote ethical conduct within the business and in its interactions with others;
-  identifying, adopting and applying standards of ethical behaviour appropriate to its purpose and activities and consistent with the principles outlined in this Guidance;
-  encouraging and promoting the observance of its standards of ethical behaviour;
-  defining and communicating the standards of ethical behaviour expected from its governance structure, personnel, suppliers, contractors and, when appropriate, owners, managers, and particularly from those that have the opportunity to significantly influence the values, culture, integrity, strategy and operation of the business and people acting on its behalf, while preserving local cultural identity;
-  preventing or resolving conflicts of interest throughout the business that could otherwise lead to unethical behaviour;

- 🔗 establishing oversight mechanisms and controls to monitor and enforce ethical behaviour;
- 🔗 establishing mechanisms to facilitate the reporting of unethical behaviour without fear of reprisal;
- 🔗 recognizing and addressing situations where local laws and regulations either do not exist or conflict with ethical behaviour; and
- 🔗 respecting the welfare of animals, when affecting their lives and existence, including by ensuring decent conditions for keeping, breeding, producing and using animals.

RESPECT FOR CONSUMER RIGHTS

The Principle:

A Business Should Recognize and Respect Consumer Rights throughout the Production Process.

Consumer rights under warranties cover the scope of the universal consumer rights that provide guidance on the underlying values of consumer protection, which can be useful to businesses as they analyze their warranty issues. Products should not be defective so as to violate or trigger the infringement of these consumer rights. Warranties must recognize consumer rights to:





- 🔗 ***satisfaction of basic needs.*** This is the right to have access to basic essential products and services, adequate food, clothing, shelter, health care, education, water and sanitation.;
- 🔗 ***safety.*** This is the right to be protected against production processes, products and services that are hazardous to health or life;
- 🔗 ***be informed.*** This is the right to be given facts needed to make an informed choice, and to be protected against dishonest or misleading advertising or labelling;
- 🔗 ***choose.*** This is the right to be able to select from a range of products and services, offered at competitive prices with an assurance of satisfactory quality;
- 🔗 ***be heard.*** This is the right to have consumer interests represented in the making and execution of government policy, and in the development of products and services;
- 🔗 ***redress.*** This is the right to receive a fair settlement of just claims, including compensation for misrepresentation, badly made products or unsatisfactory services;
- 🔗 ***consumer education.*** This is the right to acquire knowledge and skills needed to make informed, confident choices about products and services while being aware of basic consumer rights and responsibilities and how to act on them; and
- 🔗 ***a healthy environment.*** This is the right to live and work in an environment that is non-threatening to the well-being of present and future generations

RESPECT FOR THE RULE OF LAW

The Principle: A Business Should Accept That Respect for the Rule of Law is Mandatory.

The rule of law refers to the supremacy of law and, in particular, to the idea that no individual or business stands above the law, and that government is also subject to the law. The rule of law contrasts with the arbitrary exercise of power. It is generally implicit in the rule of law that laws and regulations are written, publicly disclosed and fairly enforced according to established procedures. In the context of warranties, respect for the rule of law means that a business complies with all applicable laws and regulations regarding the sale of goods, hire purchase, consumer protection and warranties. This implies that it should take steps to be aware of applicable laws and regulations, to inform those within the business of their obligation to observe and to implement measures so that they are observed.


A business should:

-  comply with legal requirements in all jurisdictions in which the business operates;
-  ensure that its relationships and activities fall within the intended and relevant legal framework;
-  remain informed of all legal obligations; and
-  periodically review its compliance.

SOCIAL RESPONSIBILITY

The Principle: A Business Should Operate in a Socially Responsible Manner

Warranty issues regarding social responsibility are related to fair marketing practices, protection of health and safety, sustainable consumption, dispute resolution and redress, data and privacy protection, access to essential products and services, and education among other matters. The UN Guidelines for Consumer Protection provide fundamental information on consumer issues and sustainable consumption (see Box 11). There are a number of principles that should guide socially responsible practices toward consumers:

-  principles drawn from the eight consumer rights that underpin the UN Guidelines for Consumer Protection :

UN Guidelines for Consumer Protection




The **UN Guidelines for Consumer Protection** is the most important international document in the realm of consumer protection. The UN General Assembly adopted these Guidelines in 1985 by consensus. In 1999 they were expanded to include provisions on sustainable consumption. They call upon states to protect consumers from hazards to their health and safety, promote and protect the economic interests of consumers, enable consumers to make informed choices, provide consumer education, make available effective consumer redress, promote sustainable consumption patterns and guarantee freedom to form consumer groups.

<http://www.theconsumerpartnership.wordpress.com>; <http://www.ghanaconsumerwatch.wordpress.com>;
<http://www.ghanaconsumerwatch.blogspot.com>

RESPECT FOR INTERNATIONAL NORMS OF BEHAVIOUR

The Principle:

A Business Should Respect International Norms of Behaviour, while Adhering to the Principle of Respect for the Rule of Law.

-  In countries where the law or its implementation does not provide for minimum consumer protection safeguards in sale of goods regulations, a business should strive to respect international norms of behavior in that area.
-  In countries where the law or its implementation significantly conflicts with international norms of behaviour, a business should strive to respect such norms to the greatest extent possible.
-  In situations where the law or its implementation is in conflict with international norms of behaviour, and where not following these norms would have significant consequences, a business should, as feasible and appropriate, review the nature of its relationships and activities within that jurisdiction

CONSUMER ISSUES

Businesses that provide products and services to consumers have responsibilities to those consumers and customers. Issues that are mainly relevant for people who purchase for private purposes (consumers) are dealt with here.

Responsibilities include providing accurate information, using fair, transparent and helpful marketing information and contractual processes. They also involve minimizing risks from the use of products and services, through design, manufacture, distribution, information provision, support services and recall procedures.

The issues raised here apply to all businesses in their role of serving consumers. However, the issues may have very different relevance depending on whether it is a product or service under discussion. Businesses have significant opportunities to contribute to quality products and services as well as consumer satisfaction through the products and services they offer and the information they provide, including information on use, repair and disposal.

Consumer Issue 1:

FAIR MARKETING, FACTUAL AND UNBIASED INFORMATION, AND FAIR CONTRACTUAL PRACTICES

Description of the Issue

Fair marketing, factual and unbiased information and fair contractual practices provide information about products and services in a manner that can be understood by consumers. This allows consumers to make informed decisions about purchases and to compare the characteristics of different products and services.

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Fair contractual processes aim to protect the legitimate interests of both suppliers and consumers by mitigating imbalances in negotiating power between the parties. Responsible marketing may necessitate provision of information on the social and environmental impacts across the whole life cycle and value chain.

Details of products and services provided by suppliers play an important role in purchasing decisions because this information may provide the only data readily available to consumers. Unfair, incomplete or misleading marketing and information can result in purchase of products and services that do not meet consumer needs resulting in a waste of money, resources and time [86][88] and that may even be hazardous to the consumer or the environment.

Related actions and expectations

When communicating with consumers, a business should:

- ✿ not engage in any practice that is deceptive, misleading, fraudulent or unfair, including omission of critical information;
- ✿ clearly identify advertising and marketing;
- ✿ openly disclose total prices and taxes, terms and conditions of the products and services as well as any accessory required for use and delivery costs. When offering consumer credit, provide details of the actual annual interest rate as well as the average percentage rate charged (APR), which includes all the costs involved, amount to be paid, number of payments and the due dates of instalment payments;
- ✿ substantiate claims or assertions by providing underlying facts and information upon request;
- ✿ not use text or images that perpetuate stereotyping with respect to, for example, gender, religion, race and sexual orientation;
- ✿ not unfairly target vulnerable groups;
- ✿ provide complete, accurate, understandable and comparable information in the languages of the point of sale on:
 - all relevant aspects of products and services, including financial and investment products, ideally taking into account the full life cycle;
 - the key quality aspects of products and services as determined using standardized test procedures, and compared, when possible, to average performance or best practice. Provision of such information should be limited to circumstances where it is appropriate and practical and would assist consumers;
 - health and safety aspects of products and services, such as potentially hazardous processes, hazardous materials and hazardous chemicals contained in or released by products;
 - information regarding accessibility of products and services; and
- ✿ the business's physical address, telephone number and e-mail address, when using domestic or cross-border distance selling, including by means of the Internet, e-commerce, or mail order.

- 🔗 use contracts that:
 - are written in clear and understandable language;
 - are transparent about the duration of the contract and the cancellation periods;
 - do not include unfair contract terms, such as the unfair exclusion of liability, the right to unilaterally change prices and conditions, the transfer of risk of insolvency to consumers or unduly long contract periods; and
- 🔗 –provide clear and sufficient information about prices, terms, conditions and costs.

Consumer Issue 2:

PROTECTING CONSUMERS' HEALTH AND SAFETY

Description of the issue

Protection of consumers' health and safety involves the provision of products and services that are safe and that do not carry unacceptable risk of harm when used or consumed as directed or indicated, or when they are misused in a reasonably foreseeable way. Clear instructions for safe use, including assembly and maintenance are also an important part of the protection of health and safety.

A business's reputation may be directly affected by the impact on consumers' health and safety of its products and services.

Products and services should be safe, regardless of whether or not legal safety requirements are in place. Safety includes anticipation of potential risks to avoid harm or danger. As all risks cannot be foreseen or eliminated, measures to protect safety should include mechanisms for product withdrawal and recall.

Related actions and expectations

In protecting the health and safety of consumers, a business should take the following actions and pay special attention to vulnerable groups that might not have the capacity to recognize or assess potential dangers. It should:

- 🔗 provide products and services that, under normal and reasonably foreseeable conditions of use, are safe for users and other persons, their property, and the environment;
- 🔗 assess the adequacy of health and safety laws, regulations, standards and other specifications to address all health and safety aspects. A business should go beyond these minimum safety requirements where there is evidence that these higher requirements would achieve significantly better protection, as indicated by the occurrence of accidents involving products or services that conform to the minimum requirements, or the availability of products or product designs that can reduce the number or severity of accidents;
- 🔗 minimize risks in the design of products by:

- ✎ identifying the likely user group(s) and giving special care to vulnerable groups;
- ✎ identifying the intended use and the reasonably foreseeable misuse of the process, product or service and hazards arising in all the stages and conditions of use of the product or service;
- ✎ estimating and evaluating the risk to each identified user or contact group, including pregnant women, arising from the hazards identified; and
- ✎ reduce the risk by using the following order of priority: inherently safe design, protective devices and information for users.
- ✎ in product development, avoid the use of harmful chemicals, including but not limited to those that are carcinogenic, mutagenic, toxic for reproduction, or that are persistent and bio-accumulative. If products containing such chemicals are offered for sale, they should be clearly labelled;
- ✎ as appropriate, perform a human health risk assessment of products and services before the introduction of new materials, new technologies or production methods and, when appropriate, make relevant documentation available;
- ✎ convey vital safety information to consumers using symbols wherever possible, preferably internationally agreed ones, in addition to the textual information;
- ✎ instruct consumers in the proper use of products and warn them of the risks involved in intended or normally foreseeable use;
- ✎ adopt measures that prevent products from becoming unsafe through improper handling or storage while in the care of consumers; and
- ✎ when a product, after having been placed on the market, presents an unforeseen hazard, has a serious defect or contains misleading or false information, withdraw all products that are still in the distribution chain, and recall products using appropriate measures and media to reach people who purchased the product. Measures for traceability may be relevant and useful.

Consumer Issue 3:

CONSUMER SERVICE, SUPPORT, AND COMPLAINT AND DISPUTE RESOLUTION

Description of the issue

Consumer service, support, and complaint and dispute resolution are the mechanisms a business uses to address the needs of consumers after products and services are bought or provided. Such mechanisms include warranties and guarantees, technical support regarding use, as well as provisions for return, repair and maintenance.








Products and services that do not provide satisfactory performance, either because of flaws or breakdowns or as a result of misuse, may result in a violation of consumer rights as well as a waste of money, resources and time.

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Providers of products and services can increase consumer satisfaction and reduce levels of complaints by offering high quality products and services. They should provide clear advice to consumers on appropriate use and on recourse or remedies for faulty performance. They can also monitor the effectiveness of their after sales service, support and dispute resolution procedures by surveys of their users.

Related actions and expectations

A business should:

-  take measures to prevent complaints by offering consumers, including those who obtain products through distance selling, the option to return products within a specified period or obtain other appropriate remedies;
-  review complaints and improve practices in response to complaints;
-  if relevant, offer warranties that exceed periods guaranteed by law and are appropriate for the expected length of product life;
-  clearly inform consumers how they can access after-supply services and support as well as dispute resolution and redress mechanisms;
-  offer adequate and efficient support and advice systems;
-  offer maintenance and repair at a reasonable price and at accessible locations and make information readily accessible on the expected availability of spare parts for products; and
-  make use of alternative dispute resolution, conflict resolution and redress procedures that are based on national or international standards, are free of charge or are at minimal cost to consumers, and that do not require consumers to waive their rights to seek legal recourse.

Material for this paper was adapted from ISO 22000 Guideline Standard on Social Responsibility

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The Consumer Partnership (THE-COP) is a non-profit Consumer Protection Promotional Organization with the aim of promoting Consumer Education, Consumer Participation in the Standardization Process in Ghana and encouraging Consumer Comparative Shopping.

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