

Guidance Note	Forms and Precedents	Checklists	Other Resources
<b>1. INTRODUCTION TO CONSUMER RIGHTS</b>			
<b>1.1 Types of consumer rights</b>			
1.1.1 Basis of consumer rights			
1.1.2 Purpose and policy of the CPA			
<b>1.2 Application of the CPA</b>			
1.2.1 Overview of the application of the CPA			
1.2.2 Definitions impacting the application of the CPA			
1.2.3 Interplay between the CPA, NCA and other legislation			
<b>1.3 Exemptions and exclusions</b>			
1.3.1 Specific exclusions			
1.3.2 Application thresholds			
1.3.3 Exemptions			

<b>2. CONSUMER RIGHTS AND PROTECTION</b>			
<b>2.1 The right of equality in a consumer market</b>			
2.1.1 Discriminatory marketing			
2.1.2 Justification for differential treatment			
2.1.3 Complaints lodged with the NCC versus the Equality Court	Form 2 – Institution of proceedings in terms of section 20 of the Promotion of Equality and Prevention of Unfair Discrimination Act 4 of 2000 [Regulation 6(1)]		Lower courts list
<b>2.2 The right to privacy</b>			
2.2.1 What is direct marketing	Annexure C – Rescission of Agreement		
2.2.2 Guidelines for lawful direct marketing			Annexure A to the CPA Regulations. How to deal with unwarranted direct marketing
2.2.3 The direct marketing registry			
2.2.4 Comparing direct marketing in the CPA and POPI			How to deal with unwarranted direct marketing
<b>2.3 The right to choose</b>			
2.3.1 Prohibition against bundling			

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2.3.2 Limitations on fixed term agreements			Fixed term agreements in terms of section 14 of the CPA
2.3.3 Pre-authorisation for repair and maintenance services			
2.3.4 Cancelling advance reservations and bookings	Example of general cancellation policy clause		
2.3.5 Right to choose and examine goods			
2.3.6 Right to timely delivery of goods and supply of services			
2.3.7 When are goods and services unsolicited			
2.3.8 Consequences of unsolicited goods and services			
<b>2.4 The right to return, refund or replacement</b>			
2.4.1 The right to return unsafe or defective goods	Draft clause to indemnify a party	Return of goods under the CPA	
	Basic Returns Policy Outline		
2.4.2 Other rights to return goods	Basic Returns Policy Outline	Return of goods under the CPA	
2.4.3 When can a supplier impose a charge for returned goods	Basic Returns Policy Outline	Return of goods under the CPA	
2.4.4 When can a supplier refuse to accept returned goods	Basic Returns Policy Outline	Return of goods under the CPA	
<b>2.5 Right to disclosure and information</b>			
2.5.1 Plain language	Table of examples of how to reword in plain language		
2.5.2 Disclosure of prices			
2.5.3 Keeping sales records			
2.5.4 Disclosure of reconditioned and grey market goods			
2.5.5 Disclosure by intermediaries			
2.5.6 Identification of drivers, installers and others			
<b>2.6 Product labelling</b>			
2.6.1 What is a trade description	Table of examples of how to reword in plain language		

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2.6.2 General rules for labels and trade descriptions			
2.6.3 Textiles, clothing, shoes and leather goods			
2.6.4 Genetically modified organisms			
2.6.5 Foodstuffs			Labelling of foodstuffs flowchart
<b>2.7 Right to fair and responsible marketing</b>			
2.7.1 General marketing standards			Examples of reasonable marketing standards in terms of section 29
2.7.2 Prohibition against bait marketing			Examples of reasonable marketing standards in terms of section 29
2.7.3 Prohibition against negative option marketing			
2.7.4 Requirements for catalogue marketing			
2.7.5 Trade coupons and promotional offers			
2.7.6 Customer loyalty programmes			
2.7.7 What is a promotional competition	Promotional competition rules		
2.7.8 Requirements for promotional competitions	Promotional competition rules		
2.7.9 The offer to participate in a promotional competition			
2.7.10 The promotional competition rules	Promotional competition rules		
2.7.11 Promotional competition record keeping	Promotional competition rules		
2.7.12 Alternative work schemes			
2.7.13 Referral selling			
2.7.14 Agreements with persons lacking capacity			
<b>2.8 Right to fair and honest dealing</b>			
2.8.1 Prohibition against unconscionable conduct			

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2.8.2 Prohibition against false, misleading and deceptive representations			
2.8.3 Pyramid and other schemes			
2.8.4 Substituting goods and changing agreements			
2.8.5 Over-selling and over-booking			
<b>2.9 Auctions</b>			
2.9.1 What is an auction			
2.9.2 Advertising auctions			
2.9.3 Rules for auctions			
2.9.4 Auctioneer disqualification and prohibited behaviour			
<b>2.10 Right to fair just and reasonable contract terms</b>			
2.10.1 Unfair, unjust or unreasonable terms			
2.10.2 Terms that require explanation			Examples of red flag clauses
2.10.3 Prohibited terms			
2.10.4 Agreements that must be in writing			
2.10.5 Court's power to ensure terms and agreements are just and fair			
<b>2.11 Right to fair value good quality and safety</b>			
2.11.1 Right to quality services			
2.11.2 Right to safe, good, quality goods			
2.11.3 Implied warranties	Basic Returns Policy Outline	Return of goods under the CPA	
2.11.4 Warnings			
<b>2.12 Right to supplier accountability</b>			
2.12.1 Lay-bys			
2.12.2 Prepaid certificates, credits and vouchers			
2.12.3 Prepaid services			
2.12.4 Holding consumers property			
2.12.5 Deposits for packaging of goods			

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2.12.6 Return of parts and materials			

### 3. FRANCHISES

3.1 What is a franchise			
3.1 Definition of a franchise			
3.2 Agreements with franchisees			
3.2.1 Requirements for franchise agreements			
3.2.2 Disclosure to franchisees	Template format for disclosure document		

### 4. PRODUCT SAFETY AND LIABILITY

4.1 Product recall			
4.1.1 NCC initiated recalls			
4.1.2 Supplier initiated recalls			
4.2 Strict liability			
4.2.1 Common law on strict liability			
4.2.2 Latent defects, hazards, unsafe products and product failure			
4.2.3 When is there liability under section 61			

### 5. ENFORCEMENT OF THE CPA

5.1 Strict liability recovery			
5.1 What can be recovered in terms of section 61			CGSO Advisory Note 8 – Emotional distress suffered from contaminated food
5.2 Authorities and their roles			
5.2.1 NCC			NCC Enforcement Guidelines
5.2.2 The Tribunal			NCC Enforcement Guidelines
5.2.3 Ombuds			
5.2.4 Consumer courts and provincial authorities			
5.2.5 The Civil Courts			
5.3 Enforcing a claim			
5.3.1 Options available to a consumer			
5.3.2 How to lay a complaint	Complaint form in terms of section 71(1)		

Guidance Note	Forms and Precedents	Checklists	Other Resources
			NCC Enforcement Guidelines
	Notice of non-referral in terms of section 71(1)(a)		
	Notice of non-referral in terms of section 73(1)(a)		
	Confidentiality claim form in terms of section 106(1)		
5.3.3 What happens after a complaint is made			
5.3.4 Alternative dispute resolution			
5.3.5 Interim relief	Form T.I.149 (1) – Interim relief in respect of a complaint referral		
5.3.6 Civil actions and jurisdiction	Form T.I.164(3) (b) – Application to the National Consumer Tribunal for a certificate declaring conduct to be prohibited or required in terms of the Act		
5.3.7 Time limits on complaints			NCC Enforcement Guidelines
5.3.8 Codes of conduct relevant to CPA			
5.3.9 Standard of proof			
5.3.10 Consumer protection groups			
5.4 Consequences of non compliance			
5.4.1 Compliance notice	Form T.I.60(3) & 101 CPA – Notice of Application to the National Consumer Tribunal to review notice issued by the National Consumer Commission, in terms of section 60(3) or 101 of the Consumer Protection Act, 2008		
5.4.2 Offences			
5.4.3 Penalties			
5.4.4 Administrative fines			
5.4.5 Vicarious liability			

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<b>6. BUSINESS NAMES</b>			
6.1 Registration and criteria			
6.1.1 Registration of business names	Registrar of companies form		
	Notice to show cause why registration of business name should not be cancelled in terms of section 80(4)(a)		
	Cancellation of registration of business name		
6.1.2 Criteria for business names	Form CTR 142		
	Notice to show cause why registration of business name should not be cancelled in terms of section 80(4)(a)		
	Cancellation of registration of business name		

<b>7. INDUSTRY CODES OF CONDUCT</b>			
7.1 Details of industry codes			
7.1.1 What are industry codes			
7.1.2 Published industry codes			CGSO 2015/2016 Annual Report
			The South African Automotive Industry Code of Conduct (GN 817 of 17 October 2014, in Government Gazette 38107)

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<b>8. TIPS FOR SUPPLIERS OF SPECIFIC GOODS AND SERVICES</b>			
8.1 What to look out for in certain industries or contracts			
8.1.1 What to look out for in lease agreements			
8.1.2 What to look out for in certain fixed term agreements such as gym contracts and cell phone contracts	Notice of expiry date for fixed term agreements		
8.1.3 What to look out for in the hospitality industry			
8.1.4 What to look out for when providing medical goods and services			
8.1.5 What to look out for when operating a call centre			How to deal with unwarranted direct marketing
8.1.6 What to look out for when in the retail industry			