

# GUIDE TO CONSUMER RIGHTS AND RESPONSIBILITIES

## PREAMBLE

1. In addition to a set of the Rules that addresses corporate rights and responsibilities, the Consumer Council has also produced this 'Guide to Consumer Rights and Responsibilities' which
  - sets out the Council's general policy on consumer rights and responsibilities; and
  - provides a guide to consumers as to what is expected from them in the marketplace.

## CONSUMER RIGHTS

2. The following eight basic consumer rights serve as a commonly accepted basis upon which consumer advocacy groups worldwide develop programmes in order to meet the expectations of the communities in which they work.

**The right to satisfaction of basic needs** - To have access to basic, essential goods and services: adequate food, clothing, shelter, health care, education, public utilities, clean water and sanitation.

**The right to safety** - To be protected against products, production processes and services which are hazardous to health or life. Personal data and privacy should be respected and protected.

**The right to be informed** - To be given the facts needed to make an informed choice, and to be protected against dishonest or misleading advertising and labelling. Information to consumers such as product specification, place of origin, safety warnings, price, mode of payment, date of quality assurance, description of after-sale services, warranty, ingredient, nutritional facts, etc.

**The right to choose** - To be able to select from a range of products and services, offered at competitive prices with an assurance of satisfactory quality.

**The right to be heard** - To have consumer interests represented in the policy making process of government, trade, professional and industry associations, where the making and execution of those policies will have an impact on the supply of goods and services to consumers.

**The right to redress** - To receive a fair settlement of just claims, including compensation for misrepresentation, shoddy goods or unsatisfactory services.

**The right to consumer education** - To acquire knowledge and skills needed to make informed, confident choices about goods and services, while being aware of basic consumer rights and responsibilities and how to act on them.

**The right to a healthy and sustainable environment** - To live and work in an environment which is non-threatening and sustainable to the well-being of present and future generations.

3. For traders' responsibilities to respect consumer rights, details can be found in the "Good Corporate Citizen's Guide", "Trade Practices Rules", "Complaint Handling Rules" and "Fair Competition Rules".

## **CONSUMER RESPONSIBILITIES**

4. With rights there are also responsibilities. In conjunction with the above rights, there is also an expectation that consumers act rationally, and accept a reasonable level of responsibility when exercising choice and entering into transactions in the marketplace.
  5. You, as consumer, have a responsibility to
    - keep yourselves informed as best as possible;
    - exercise due care when making decisions in the marketplace;
    - consider the detrimental consequences that may arise from ill considered decisions; and
    - honour reasonable obligations arising from your decisions.
  6. The following suggestions are offered as to what is expected from you as responsible consumers.
- ### **Before Purchase**
7. Find out first — It is your responsibility to be properly informed.
    - Identify your 'needs', and differentiate them from 'wants'.
    - Obtain as much information on the product or service, and others' experience with similar purchases.
    - Compare price, quality standard and features with competing products.
    - Assess safety issues, such as the age suitability of toys and potentially dangerous features (sharp edges etc).
    - Understand that advertising and marketing material may not necessarily give the full picture, and further inquiries will be necessary.
    - Avoid making hasty or impulsive decisions based on extravagant claims or exaggerated representations.
    - Refrain from entering into any schemes that are promoted with terms such as "get rich quick".
    - Understand your financial capability before making any purchase or committing an advance payment.
  8. Price indications — Make sure you understand the price involved. The price indicated by a trader is an offer, and upon acceptance of that offer consumers are expected to pay that price.

- If in doubt as to price, or where the manner in which the price indicated is outside the normal pattern, seek clarification as to what you are expected to pay. If still in doubt or confused, refrain from making the purchase.
- Bargaining on price is a matter of policy, for individual shops to determine. Consumers should not assume the policy always applies.
- When “free gifts” are offered always make a calculation of the cost of the associated product and check the cost of the ‘free’ gift to see if the cost of the gift is actually covered in the purchase price, or hidden in some other way.
- Under Hong Kong’s free market, prices can vary between different traders because of their different costs and other factors. Therefore, once a transaction has been completed, a trader is under no obligation to refund the difference if a consumer finds a cheaper price elsewhere, unless the trader has made such a promise.

9. Understand your contract — A contract sets out the legal obligations of not only the trader, but also the consumer.

- Read all the provisions in a contract before signing. If unsure of the meaning of certain terms, seek assistance from your friends or relatives who may have had knowledge or similar experience with the related product or service, or check with legal advisers.

- Initial any changes that have been made to the contract and do not leave blank spaces in parts of the contract that set out obligations, rights etc.
- Take note of whether any ‘cooling off’ periods are offered (and utilize them if necessary).
- Similar products can vary in terms of quality. It is reasonable to expect that a lower price than other competing products can mean lower quality. Expectations as to quality should be adjusted accordingly.
- Consumers should honour what they have committed themselves to. Be aware of obligations to fulfil terms of agreements and take responsibility for non-fulfilment of those terms. Consumers not satisfied with the contract terms should refuse to accept them, instead of hastily entering into agreements and going back on them afterwards.

10. Sustainable development — Have regard to the environment. Select products which

- are environmentally friendly and do not cause harm to the environment;
- can be repaired, upgraded, recycled or have a refill package, as far as possible;
- are efficient in the use of energy;
- do not generate unacceptable levels of waste;

- observe the correct separation requirements in relevant waste disposal bins; and
- bring your own bag when shopping.

11. Illegal transaction — Consumers have a responsibility not to partake in illegal behaviour

- Refuse to pay any bribes, and report any approaches to engage in unlawful behaviour.
- Refuse to purchase any products that infringe copyright.
- Refuse to purchase any products that are illegally avoiding tax.
- Never attempt to solicit for unjustified advantage.
- Report any irregularities in trading behaviour that you consider could be unlawful, to the appropriate authorities.

12. Electronic commerce

- Read carefully the terms of the electronic transaction. For example,
  - the terms of payment, including the correct payment procedure to be followed;
  - terms of delivery including the time period of delivery;

- guarantees;
- warranties or other provisions relating to after-sales service;
- any cooling-off period;
- conditions related to return, exchange, cancellation, or refund policy;
- the trader's privacy policy; and
- the conditions that apply to online redress mechanisms for resolving disputes.

- Make sure your Internet security software is up to date and ensure that the purchase method used by the trader has adequate security encryption safeguards.
- If in doubt as to the authenticity of an offer or a request to provide information online, undertake checks with the company via other means, i.e. by telephoning the company's office.

13. Privacy

- Always read the privacy policy of a trader before giving information you wish to keep private.

14. Competition

- Undertake research and shop around for the best deal. In this way, consumers can ensure there is a vigorous competitive environment.

## After Purchase

### 15. Payments and checking of goods

- Pay required amounts on time and never attempt to evade lawful liability.
- Check receipt, statement or transaction record to ensure that correct transaction details are recorded.
- Keep receipts, product manuals, maintenance / warranty documents for future usage.
- Send a warranty card (particularly when warranty is offered free of charge) to the manufacturer so that future direct contact can be made if a problem occurs.
- For goods acquired by hire purchase, consumers are obliged to make periodic payments until full settlement. In the event that the goods are found to be defective, consumers should notify the seller or agent for repair and not stop payment. Otherwise the financing company may recover the products for re-sale and consumers are responsible to make up the price difference.

### 16. Return of goods

- Some retail stores might willingly give refunds or exchange goods merely because a customer has a change of mind (not related to merchantable quality of products); even though there is no legal obligation to do so. However,

not all business might be able to afford such tolerant behaviour, and traders are free to decide it is not in their commercial interests to do so. They are free to develop their own business reputation in this regard, in the same way that consumers are free to take their business elsewhere if they feel aggrieved.

### 17. Product safety

- Check products thoroughly and immediately upon delivery.
- Raise any problems with trader first, before attempting to contact the manufacturer.
- Always read any warnings and product information as to installation instructions, maintenance and safe operation.
- Use products according to the instructions, and only for the intended purpose.

### 18. Product recalls

- Heed announcements by manufacturer or trader on product recalls on the relevant product.

### 19. Complaint handling services — If you have a problem with certain goods or services:

- Assess carefully what has been promised by the trader at the time of purchase, and in the terms of the contract and promotional literature, to see if you have a justified case.

- Most traders are willing to resolve complaints amicably. Therefore, always attempt to first seek resolution of your complaint with the business that provided the good or service, before approaching the Consumer Council.
- Specific government departments, government agencies, or business associations have specific responsibilities to enforce the law. For example, Customs & Excise Department handles complaints on unsafe products and short-weight, whilst the Food and Environmental Hygiene Department handles complaints on food. It will be more efficient and effective for consumers to approach these departments direct.
- Have realistic expectations as to what remedy you would be entitled to claim from a trader when you experience problems with a product. Remedial action for a faulty product may be in the form of repair, replacement or refund. However, the latter two measures would not necessarily apply if, for example, a repair will restore a faulty product to its original fault free condition. Consumers are advised to consider offers from traders objectively and in a harmonious spirit, recognising that the traders also may face costs and inconvenience as a result of the fault.
- Complaints against poor attitude of shopkeepers / service personnel should preferably be referred to, and handled by, senior management of the company concerned.
- Ensure that you have copies of relevant receipts, invoices, contracts and promotional literature, to give documentary support to any complaints or actions that may arise in the future.
- Always be truthful in your statements; and avoid exaggerating and omitting facts that are relevant to the situation.