

The Consumer Protection Act: best you understand it.

 By [Gillian Rightford](#)

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Hey, so I know we all talk about how important the consumer is in the business of creating advertising. But if you are an advertising/communication practitioners, have you taken the time to study this legislation, the new Consumer Protection Act, which goes live in April 2010?

Do you understand the implications of the act for the communications industry, and more so, for your clients?

What you need to know

What you need to know is as follows, from an overview by [Rosalind Lake, attorney at Deneys Reitz](#):

- According to the Department of Trade and Industry, the primary purpose of the new act is to prevent exploitation or harm to consumers.

 - The law regulates the way businesses relate with consumers and how they market their products and services. The act therefore applies not only to “every transaction occurring within the Republic” (subject to certain exemptions) but also to the marketing and supply of goods and services.
 - The act touches on many aspects of supply relationships, including warranties, pricing, standards of service and quality, advertising, labelling, marketing and others. The act introduces a bill of rights, granting consumers wide-ranging powers to cancel contracts within “cooling-off” periods, to refuse to purchase “bundled” products or services, to cancel fixed-term agreements if not satisfied with their terms and to block approaches by direct marketers, amongst many others.
- There is also a distinct focus throughout the act on clear and understandable language and ensuring that the consumer is not misled by suppliers.
- Most controversially, the act introduces a system of product liability on suppliers for damage caused by the supply of defective goods. A consumer can therefore claim damages from producers, distributors or suppliers for any death, injury, loss, damage to property and economic loss, without having to prove negligence.

- Contraventions of the act will not be treated lightly and there is provision for hefty penalties for non-compliance.

While the Advertising Standards Authority (ASA) code may already cover many of these areas, the consumer now has a

big stick: “the consumer may hold at their whim any or all persons in the supply chain liable for damages...”, as described by experts at [Hahn & Hahn Law](#). (And by the way, a consumer doesn't actually have to *buy* your product: they can complain even if it's on shelf and it offends them.)

Substantial legal and financial risk

Thus, marketers now are exposed to substantial legal and financial risk, over and above being rapped on the knuckles by the ASA for breach of the code.

From what I can see, the professional marketing community is on top of this legislation and its consequences.

Communication agencies, whether advertising, packaging design, PR, digital - whatever - need to be working closely with their clients on their brand claims and promises, their advertising messaging, the copy on their packaging.

They should also be chatting to a friendly attorney who understands this stuff (I'm just the messenger) and buttoning down their role in this act. The Association for Communication and Advertising (ACA) says it has sent out quite a bit of information to its members and is running a workshop on the Act. Professor Delport is also available to members for one-on-one queries through the ACA's advisory services.

Supply chain of information

The communication agency is a key part of the supply chain of information from manufacturer to consumer, so this knowledge is critical, for all disciplines in the agency, from management and account management, to strategy and, very importantly, creative, in developing claims and ad campaigns that may keep your client out of trouble.

If it can mislead, you could be putting yourself and your client, at risk.

Read a copy of the act at [Consumer Protection Act](#).

ABOUT GILLIAN RIGHTFORD

Gillian Rightford's CV is a mix of marketing, advertising, and management. A former group MD of Lowe Bull, she started Adtherapy (www.adtherapy.co.za), a company that aims to improve the quality of advertising out there through better skills and better client/agency relationships. She runs a beauty brand, Moya, and was made aware of this Consumer Protection Act through a workshop held by the Cosmetic, Toiletries and Fragrance Association. Contact Gillian on tel +27 (0)21 761 2812 or email gillian@adtherapy.co.za, read her blog at <http://adtherapy.blogspot.com> and follow her on Twitter at [@grightford](#).

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