

CONSUMER PROTECTION IN THE CARIBBEAN COMMUNITY – CARICOM

Introduction

The benefits of consumers to any market place cannot be ignored. Scholarly articles have shown a nexus between consumers and economic growth and World War II illustrated just how important consumers are to a market economy. **Chapter Eight Part II of the Revised Treaty of Chaguaramas (RTC) at Articles 184 – 186** sets out the obligations and measures to be taken by Member States and the CARICOM Competition Commission (CCC) to protect consumer interests and promote consumer welfare.

International Background

On 15 March 1962 during a Special Address by US President John F. Kennedy to the Congress of the United States on the Bill of Consumer Rights, he articulated four (4) rights of consumers. These were –

- **the right to safety,**
- **the right to be informed,**
- **the right to choose; and**
- **the right to be heard.**

In 1983, Consumers International (CI), the global federation of consumer organisations issued a Charter of Consumer Rights. The CI Charter expanded on the four (4) rights enunciated by John F. Kennedy and identified the following eight (8) rights:

- **the right to basic needs;**
- **the right to safety;**
- **the right to information;**
- **the right to choose;**
- **the right to be heard;**
- **the right to redress;**
- **the right to education; and**
- **the right to a healthy environment.**

These eight rights have become the fundamentally accepted universal rights of consumers and form the foundation for consumer protection legislation worldwide. The CARICOM Model Consumer Protection Bill makes provision for the identified eight (8) rights. **[Download a copy of the Bill](#)**

Consumer protection continued to gain momentum, when the United Nations (UN) issued guidelines on the protection of consumers through the General Assembly Resolution 39/248 of 1985. These were **expanded in 1999 to include sustainable consumption and revised in 2015 to address consumer protection matters relating to Electronic Commerce and Financial Services**. The UN Guidelines are responsible for bringing about widespread recognition of the rights of consumers and were premised on the following objectives:

- (a) to assist countries in achieving or maintaining adequate protection for their population as consumers;
- (b) to facilitate production and distribution patterns responsive to the needs and desires of consumers;
- (c) to encourage high levels of ethical conduct for those engaged in the production and distribution of goods and services to consumers;
- (d) to assist countries in curbing abusive business practices by all enterprises at the national and international levels which adversely affect consumers;
- (e) to facilitate the development of independent consumer groups;
- (f) to further international cooperation in the field of consumer protection;
- (g) to encourage the development of market conditions which provide consumers with greater choice at lower prices;
- (h) to promote sustainable consumption.

Regional Background

The RTC, establishing the Caribbean Community (CARICOM) including the CARICOM Single Market and Economy (CSME), through Articles 184 to 186 and Article 67(d), provides for the promotion and protection of the interests and welfare of consumers within the Community. Article 185 of the RTC mandates Member States to take action to enact harmonized legislation which shall provide for inter alia:-

- **Fundamental terms of a contract and the implied obligations of parties to a contract for the supply of goods and services;**
- **Prohibition of the inclusion of unconscionable terms in contracts for the sale and supply of goods and services to consumers;**
- **Prohibition of unfair trading practices, particularly such practices relating to misleading or deceptive or fraudulent conduct;**

- **Provision of services in compliance with the applicable regulations, standards, codes and licensing requirements.**

Article 186 provides for the protection of consumer Interests in the Community and mandates the CARICOM Competition Commission (CCC) to provide support to Member States in the enhancement of consumer education and consumer welfare.

Prior to the signing of the RTC in 2001, few Member States had enacted comprehensive consumer protection legislation, notably Antigua and Barbuda, Jamaica and Trinidad and Tobago. However, there are a number of other legislations and regulations in various Member States that provide some protection for consumers including, inter alia: Sale of Goods; Hire Purchase, Consumer Guarantees and Unfair Contract Terms. Article 185 of the RTC provides for these broad areas to be covered in harmonised consumer protection legislation in Member States.

CARICOM continues to work towards a harmonized framework for the protection of consumers in the CSME. Towards this end, the CARICOM Secretariat undertook the task of drafting model consumer protection legislation to ease the burden of Member States. The Fortieth Meeting of the Council on Trade and Economic Development (COTED) approved the draft CARICOM Model Consumer Protection Bill in 2015 which has since been approved by the Legal Affairs Committee (LAC) in 2016 for implementation by Member States. The COTED at its Forty-Third meeting in 2016 has urged Member States which had not yet done so, to enact consumer protection legislation guided by the model CARICOM Consumer Protection Bill within the next two (2) years. Additionally, Member states that have since enacted consumer protection legislation are required to revise/amend existing consumer legislation to harmonize with the CARICOM Model Consumer Protection Bill.