

# How SA consumers are enforcing their rights against online retailers

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The Consumer Protection Act (CPA) empowers the Consumer Goods and Services Ombud (the Ombud) to mediate disputes between consumers and businesses that provide goods and services. The Ombud was established to ensure that businesses treat consumers fairly and equitably.



In successful cases, the Ombud can secure refunds for consumers from suppliers. The consumer can also take a matter to the National Consumer Commission which is empowered to launch a formal investigation into a complaint. In addition, the CPA allows a third party, who is not affected but is acting in the public interest, to institute legal proceedings in a court or the National Consumer Tribunal for infringement of a consumer right.

The Ombud studies trends in the consumer market and identifies the sectors responsible for the largest number of consumer complaints. Recently, the Ombud reported a sharp increase in consumer complaints about online shopping. In March 2020 complaints related to online shopping accounted for only 6% of total complaints received by the Ombud but this figure increased sharply to 27% of total complaints in the 2021 financial year.

## Unprecedented demand for online goods and services

The Covid-19 pandemic has resulted in unprecedented demand for online goods and services by South African consumers. Due to the unexpected nature of the increase in demand, many businesses have struggled to cope. In particular, consumers complain that online stores fail to deliver goods and services on time, and in certain cases, do not deliver at all.

An additional category of complaints received by the Ombud relate to fraudulent online businesses. Anyone can set up an online business through various social media platforms, with little to no vetting. As a result, consumer reliance on online shopping has created an easy avenue for the creation of fake online businesses that accept payments with no intention of delivering the goods or services.



## Takealot disagrees with CompCom report findings

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The CPA provides that a consumer has a right to receive goods that are in good working order and free of any defects. It provides that a supplier is responsible to deliver goods on the agreed date and time, and, if that is not achievable, within a reasonable time after concluding the transaction.

In terms of section 46 of the Electronic and Communications and Transactions Act, if online goods are unavailable, the supplier must notify the consumer and refund any payments within 30 days of the notification.

## Reputational harm

Consumers have several avenues in the CPA to enforce their rights and are increasingly exercising these rights. Even online businesses operating within the law may apply certain practices that fall short of the standard expected of suppliers in the CPA. Businesses should be alive to this risk and take steps to mitigate it.

They should also remember that easy though it is to set up an online store, it is just as easy to suffer reputational harm from poor and unfair business practices.

## ABOUT THE AUTHOR

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