

Review

Consumers' protection and creating consumers' value

Suzana Salai¹, Ružica Kovač Žnideršić¹ and Leonard Salai²

¹Faculty of Economics in Subotica, the University of Novi Sad, Serbia.

²Higher School of Professional Studies, Novi Sad, Serbia.

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Customer protection is a complex concept, which encompasses the care and protection of the so-called 'reasonably circumspect consumer'. Through legal, economic, health, safety and numerous other aspects, the modern state uses norms to regulate and control consumer protection. The aim of protecting reasonably circumspect consumers is to protect their health, safety and economic interests in the environment of freely circulating products and services on the efficiently functioning market. Marketing is focussed on consumers and meeting their needs, wishes and preferences. The modern marketing delivers values to consumers. This is achieved through selecting, creating, delivering and communicating values. Whether it is about offline or online marketing, a consumer is an individual (rather than a mass of consumers as in mass marketing) whose privacy must be respected. It is then that marketing serves the purpose of consumer protection.

Key words: Consumer protection, consumer self-protection, consumer rights, consumer value, consumer privacy, marketing.

INTRODUCTION

The issue of consumer protection in developed market economies and societies is not a novelty, but in the transition economies and societies it is one of the contemporary issues that require special attention.

The philosophy of consumerism first appeared in the USA in the 1960s. Consumerism (as the third wave of the consumer movement) received political support in 1962, when the President J.F. Kennedy uttered the famous sentence, 'Consumers, by definition, include us all'. It followed legal, ethical and economic pressures on the business community to institutionalise consumers and the need for their organised action. The first federal Consumer Product Safety Act was passed in the USA in 1972. In 1985, the UN General Assembly adopted Resolution 39/248, establishing guidelines for consumer

protection, defining the eight core consumer rights.

This gave birth to consumer organisations demanding the right to safety, the right to be informed, the right to choose and right to be heard. The International Organisation of Consumer Unions (IOCU) added four more to these, which today represent the first set of eight core consumer rights. These include the right to satisfaction of basic needs, the right to redress, the right to consumer education and the right to a healthy and sustained environment. The EU redefined (Rkman, 2007:3) the eight core consumer rights into ten practical and more transparent basic principles of consumer protection policies: buy what you want, where you want; if it doesn't work, send it back; high safety standards for food and other consumer goods; know what you are eating;

*Corresponding author. E-mail: salais@eccf.su.ac.yu.

contracts should be fair to consumers and transparent; sometimes consumers can change their mind; making it easier to compare prices; consumer should not be misled; protection while you are on holiday (in the consumer's own country or abroad); effective redress for cross-border disputes (consumer rights infringements).

The rise of consumer protection

To reach the current form of consumer rights pattern, the development of consumer rights has undergone several stages: the 'crusade' (characterised by the lack of organised movement on national level and the existence of small-scale consumer organisations); 'popular movement' (with organised movements functioning on the national level); 'management stage' (when the consumer movement is headed by the government and politicians, and the consumers' movement is aided by laws and regulations); the 'bureaucratic stage' (when the movement stagnates rather than develops, and the protection of consumers' interests lies exclusively within governmental competence and responsibility).

The highest form of consumer protection is, therefore, when it is taken care of by the state. The state and other public institutions regulate issues relevant to consumer protection by adopting and monitoring the implementation of laws and subordinate legislation. Since the formation and functional initiation of the unique European Common Market in 1993, consumer protection has become the official policy of the European Union, implemented by the adoption of a range of regulations in different segments of consumer protection. The Maastricht Treaty of 1993 created the prerequisites for consumer protection as a distinct EU policy.

It must be pointed out that consumer protection is best developed in Sweden, where it is incorporated in the country's social and legal system. The government plays a significant role in consumer protection through substantial funds allocated to consumer education and information, with the free use of mass communication media. Another point worth mentioning is the institution of consumers' ombudsman (introduced in 1971), as an independent tribunal in disputes between consumers and corporate entities.

Activities concerning consumer protection

The protection of the consumers' economic interests is achieved through the adoption of EU directives in the field of information and compulsory consumer education, as well as a group of directives including those on comparative advertising, consumer protection in distance contracts, general product safety and a range of other acts developing consumer rights parallel with the formation and development of the EU's internal market.

As well as other transition countries, Serbia has also adopted the Consumer Protection Act (Issue 79/05 of the Official Gazette of the Republic of Serbia, in force as of September 24, 2005), the National Consumer Protection Strategy for the period 2007 through 2012 (in a joint package with the Advertising Act, Pricing Act and Competition Protection Act), as a step towards the harmonisation of the national consumer protection regulations and EU consumer protection legislation. A number of local, municipal and regional consumer unions have been established, in modest circumstances as a rule. Soon afterwards, in May 2005, the National Consumer Organisation of Serbia was established with 29 municipal and regional unions from the entire country.

This does not mean that consumer activities had not existed previously. They had existed in certain forms, especially in the period between the 1970s and the 1990s, which saw various forms of protection and self-protection of consumers' interests through other existent organisation forms, at a level corresponding to the contemporary level of demands and competences of the consumers and the environment.

At the time when this paper is being written, we have the Draft Law on consumer protection encompassing numerous aspects of protecting consumers' lives, health and safety; protecting consumers' economic interests; special forms of consumer protection in service industries; standard contracts, consumer information and education; redress and indemnity; the national consumer protection programme and protecting agents; inspection and penalty clauses. They are synthesised in the core rights: the right to basic needs, the right to safety; the right to information; the right to choice between several products and services; the right to be heard; the right to redress; the right to consumer education; the right to a healthy and sustained environment (UN General Assembly Resolution 39/248 - United Nations Guidelines for Consumer Protection)

One of the basic problems in the field of consumer protection lies in the issue of information. Namely, the dominant phenomenon among consumers is inadequate knowledge and education of consumers on their rights, as well as comparatively low consumer awareness about demanding their rights, the problems of functioning and activities of consumer unions, etc. On the other hand, there are the problems of slow and non-transparent work of market inspectorates; slow judicial system; importing products of dubious quality; aggressive approach of, for example, financial institutions (e.g. the promotional slogans, 'enter, exit, done' and 'smooth, on the double, on the spot') etc. In a word, of misused and abused marketing.

Consumer protection and self-protection

Professional literature on marketing provides a great number of views of the essence of consumerism and

consumer protection movements. Some are too narrow, some are too wide, and many are biased. According to the narrower interpretation (Kotler, 1972:49), it is a social movement aiming to strengthen the consumers' rights and influence over providers. Its narrow character is manifest in transforming the 'Let the Buyer Beware (*Caveat Emptor*)' and 'Let the Seller Beware (*Caveat Vendor*)' principles. The opposite extreme is manifested in the organised consumer effort, seeking rectification, compensation and remedy for the injustices and dissatisfaction accumulated while acquiring the attributes of living standards. The authors of this view (Buskirk, and Routhe, 1970:61) even consider the consumer protection movement to compromise the marketing concept. Namely, before the emergence of consumerism, marketing programmes had threatened consumers' interests, which makes consumerism a response to such consumer risk.

Consumer protection as a complex concept encompasses numerous legal, economic, health, safety etc. aspects, which are regulated and controlled by the state; such is also the case with consumer self-protection, which means organising for co-operation, but also for pressure. Consumer self-protection is conducted in co-operation with the state, local authorities and others, and consumers are organised for pressure aimed at producers and/or marketing channels.

At various stages of economic development, prior to the emergence of marketing, the accent was on a higher level of producer protection. Although their numbers are smaller compared to consumers, they are economically more sophisticated and powerful, more willing to co-operate mutually (if necessary) in order to strengthen their positions. The producers' and the sellers' rights were almost unlimited. Contrary to this, although consumers were more numerous, they did not use this fact, being less educated and economically inferior, which is why they were left with the only right to be used against suppliers, namely not to purchase their products or services.

The emergence of marketing has brought on not only a different philosophy, concepts and activities on producers and marketing channels side, but also significant changes on the consumers' side. The question that imposes itself is, if the focal point of marketing (suppliers of products and services as well as marketing channels) is the consumer with his or her needs, wishes and preferences, what kind of consumers should protect themselves, who from and why?

There are different definitions of a consumer. The definitions quoted here are those used in marketing theory and the Consumer Protection Act, which are similar. In the former (Maričić, 2005:17), the consumer is a social and cultural entity¹. He or she is also an individual *per se*,

a member of a family, a group of a given social class or stratum, a representative or a given nation, race, religious denomination, a citizen of a given country etc. A consumer is a person possessing money (funds) and the will to purchase products and services. A consumer, however, may also be a company or an institution (such as a school or hospital), which also buys products and services, and uses them to conduct their core activities. The term 'consumer' is, therefore, used to describe and distinguish between two types of consuming entities: persons (citizens) and organisations (companies or institutions) as consumers (Maričić, 2005:13).

In the Consumer Protection Act of the Republic of Serbia, a consumer is understood as a physical person purchasing or using products for his or her own needs or the needs of his or her family; or a legal person (including entrepreneurs) when they purchase products or uses services for their own needs. A consumer is not a 'professional' on the market but the 'weaker' side, which needs protection in order to establish a balance of rights and obligations of all participants, both on the supply and the demand end. Consumers need to be protected by providing information and education, so that they can make the best choice of products and services and thereby provide for the satisfaction of their own needs, safety of the chosen products and services, and healthy environmental conditions. In the practices of the European Court of Justice, a protected consumer is a reasonably circumspect consumer. The aim of protecting reasonably circumspect consumers is to protect their health, safety and economic interests in the environment of freely circulating products and services on the efficiently functioning market.

How a consumer makes decisions and what goes on in his or her mind is the object of interest of behavioural sciences, where different schools use different approaches. The most common approach to decision-making process in marketing occurs in the consumer's personality, undergoing several stages (need/problem recognition; search for information; assessment of alternatives; purchase and assessment of the purchased product or service). The main impact on consumer behaviour reflecting on the decision-making process, purchase centre and criteria for choice can be allocated in three groups: the shopping situation, personal influences and social influences (Figure 1).

Given the freedom of choice of products and services, that is, values, in the environment of limited purchasing power, time and information available, the contemporary consumer expects to have satisfaction, delight and value. In the shopping process, consumers prefer values offered by those companies with which they attain their goals.

¹ A consumer is a person using products and services to satisfy his or her own personal needs and those of his or her family. A consumer wishes to purchase a given product and services. The notion of consumer is derived from and closely related to the notion of consumption. The original Latin word *consumere*

literally means 'consume food', 'fully consume', 'expend', 'spend', 'use up' etc. Unlike original definitions of consumption which referred only to the consumption of food, later definitions were extended to include other products, services and places where consumers satisfy their needs and wishes (p.17)

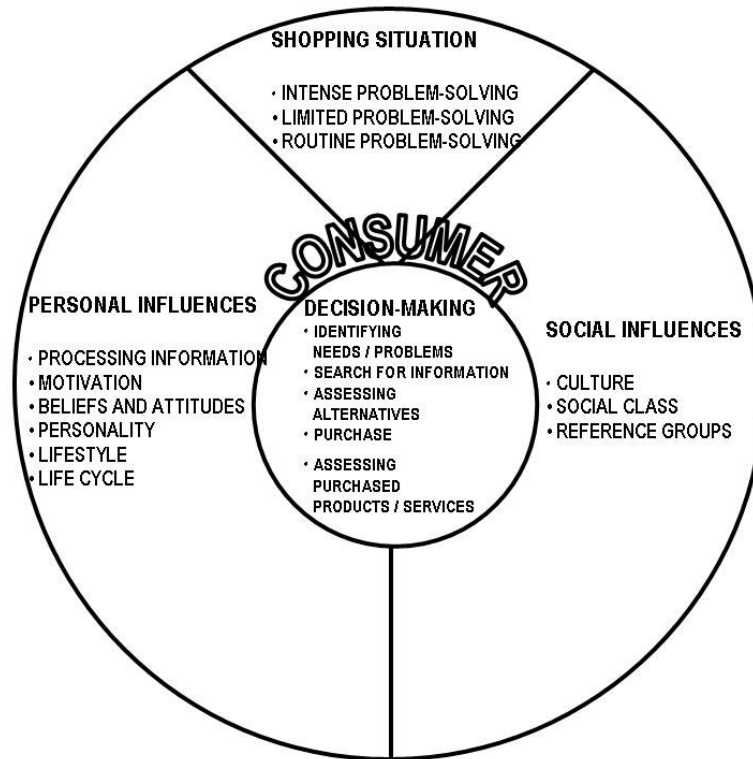


Figure 1. Influences on consumers' shopping behaviour
Source: Adapted from Jobber and Fahy (2006:70).

Contemporary marketing in consumer protection

On the global, national and local market, modern strategic marketing is carried out by segmenting, targeting and positioning. Choosing values (through marketing research, analysing companies etc), creating values (developing new products, choosing suppliers etc), delivering values (marketing channels, logistics) and communicating values (through integrated marketing communication, distribution management etc.) comprise the process and flow of delivering value to consumers and potential consumers, which provides a company's competitiveness on the market. The integration of these activities produces holistic marketing, which is used for achieving profitable growth by expanding the consumer share, building customer loyalty and lifetime customer value.

The choice of values stems from the consumer's needs, wishes and preferences which serve as a basis for building relationships and interactions between:

1. the consumer's cognitive area, reflecting the consumer's actual and latent needs, and comprising dimensions such as participation, stability, freedom and change;
2. corporate competence area, which can take the form of (a) width, that is, a extensive business volume as opposed to focussed; or (b) depth, that is, physical ability

as opposed to knowledge-based; and
3. partner resource area, which can be (a) horizontal, where a company chooses partners based on their ability to exploit opportunities offered by the market or (b) vertical, where companies choose partners based on their ability to assist in creating their value.

Creating consumer value

Creating values includes creating consumer value. In this way, the supplier's '4P' approach assumes another side, that is, 4C. From the consumer's aspect ('4C'), new benefits are identified, based on 'consumer knowledge', that is, knowing what they think, what they want, what they do, what concerns them, what delights them, who they interact with and who influences their decisions (especially decisions to purchase products and services).

The right to the satisfaction of human needs and the right to information, as consumers' core rights, include e.g. the source and content of food offered on the market. Information and data on the characteristics of products and services and terms and conditions of sale must be accurate, complete, well-based, unequivocal, clear and timely. One of the systems of preventing and controlling food safety risks and identification of unwanted/hazardous influences of chemical, physical or biological

origin, aimed at enhancing consumer protection are the Hazard Analysis Critical Control Points (HACCP). These form the basis for building the ISO 22000:2005 food safety standards.

Delivering consumer value is done by marketing channels, whose role is to ensure that the product or service is available to consumers. These may include wholesalers, retailers and other intermediaries such as agents (brokers, producer's representatives, sales agents) and auxiliaries (transport companies, independent warehouses, banks, promotion agencies). In this, the producer decides whether to apply push or pull marketing strategies. In the case of push strategy, the producer uses its sales force and sales promotion facilities to encourage intermediaries to deal with the product, promote it and sell it to final consumers. This strategy is appropriate when there is a low degree of brand loyalty in the given category, when the brand is chosen on the spot at the point of sale, when it is an impulse product, or when the product's benefits are well-known. Pull strategy uses sales promotion to persuade consumers to ask the intermediaries for the product and thereby motivate the intermediary to place it at their disposal. This strategy is appropriate when there is a high degree of brand loyalty and high degree of participation in the category, when consumers see the differences between brands and when they choose the brand before entering the shop.

When planning the demand chain in the marketing approach, companies start from target markets and then design the supply chain backward from target consumers. This 'places emphasis on the opportunities and solutions searched by consumers rather than the products that we are trying to sell them,' points out by Don Schultz (Kotler and Keller, 2006:471); he proposes that the traditional marketing elements (4P) should be replaced by a new acronym (SIVA: solutions, information, value, access). However, another wider, company-centred approach implies a network of values, that is, a system of partnerships and alliances created by a company in order to form, expand and deliver its range of offer.

In the contemporary conditions, the consumer encounters not only traditional but also the new methods of delivering values, not only off-line but also on-line e-marketing which informs the consumer, introduces the company and allows it to promote and sell its products through the Internet (virtual companies; brick-and-mortar vs. virtual companies):

Communicating values performs several functions for the consumers: informative, educational, distraction-recreation-entertainment-aesthetic, and persuasive. Integrated marketing communication, that is, combining advertising, sales promotion, personalised sales, marketing public relations, events and experience with direct marketing, leads to the accomplishment of clarity, consistency and maximum impact through the integration of promotional messages. Through unified promotional

messages, integrated marketing communications contribute to the forming, maintaining and modifying the image of products, brands and companies, thereby influencing the consumer's confidence in the choice of product or services, confirming the consumer's 'good' choice based on previously achieved satisfaction. The promotional message leads the consumer from one stage to another: from cognitive, to affective to behavioural stage. At the same time, internal marketing is characterised by high social responsibility in applying ethics and socially responsible marketing. This is a result of growth in expectations of increasingly sophisticated consumers, legislation, pressures on governments, and the investors' interest in social criteria and changes in the area of supply.

Marketing communications participate in exercising consumer rights, namely, the right to information on companies' products and services; the right to education on current and novelty products and services ('pushing' the development of science and technology) offered by suppliers; and the right to choice between available products and services of different quality and pricing, i.e. those that are appropriate for a given consumer.

The highest degree of exposure to the consumers' criticism is noted in marketing communication (especially advertising as one of its instruments, increasingly followed by direct marketing). Although there are adopted, enforceable codes of conduct (in every country) in each segment of marketing communication, there are dilemmas concerning compliance with or infringements of these, due to various possibilities of interpreting the combination of information, symbol and appeal comprising a promotional message. Namely, due to differences in the consumers' personalities, varying levels of their sophistication, differences in lifestyles, differences in purchasing power, tastes, needs and wishes, promotional messages are understood and perceived differently by consumers. Marketing does not recognise the category of 'average consumer'; marketing prefers a consumer as an individual, with differentiated needs and wishes.

The critics of marketing communication often point to the sensitivity of child population segment, and the responsibility of corporate marketing to them. There are opinions that advertising is a part of growing up and socialisation of children. However, there are other views as well, based on empiric research, that this segment is less likely to be influenced by advertising due to the fact that they spend a lot of time in front of the TV and the Internet. They (the so-called 'Generation Y') are critical, expecting information to be specifically addressed to (targeted at) them, rather than classical-style prevailing at the time of their parents ('Generation X'). Marketing communications are aware of the responsibility in creating and distributing messages aimed at child population and all others. Abuse is neither the aim nor the means of marketing; those who do it should be penalised by all social strata in their own respective ways, just as an

individual committing an illegal act will bear appropriate consequences.

The extent to which the promotional message of marketing communication is trusted, that is, the credibility of promotional message is pertinent to the credibility level of the sender of the message, and the components of the promotional message. The credibility component implies not misleading the consumer in terms of a product's characteristics and value, and the terms and conditions of sale; propriety refers to the use of audio and visual presentation common in the adopted behaviour patterns; loyalty implies not abusing the consumers' trust (due to the consumers' lack of experience or knowledge); and expertise, by which a promotional message should include knowledge of the company, product, event or personality.

Relying on marketing databases, online marketing, especially direct marketing, raises the issue of consumer privacy. Respecting consumers' privacy is an essential aspect of business ethic, with a direct impact on building consumers' trust in a company. Principles on which the respect of consumers' privacy is based include: the consumers' access to information database about themselves; the consumers' choice in terms of application and distribution of information on themselves; safety and integrity of collected data and information on consumers (O'Guinn, and Van den Bergh, 2004:148). Respecting consumers' privacy in the area of disclosing one's personal information for the formation and maintenance of databases is achieved in the following circumstances (according to Duncan, 2005:642):

1. when the consumers know that data and information is being collected on them;
2. when they have given consent to the collection of data and information on them;
3. when the information gathered from them are relevant for the purchase and utilisation of the product;
4. when the consumers themselves, not only the company will benefit from this information (through the faster delivery of chosen products or services, and obtaining necessary information, they are protected from unnecessary or unwanted information);
5. when they have a feeling that they are in control of data manipulation.

In the contemporary circumstances, the dilemma may arise as to when consumer privacy is endangered, and when it is necessary to activate consumer rights protection. Is it when promotion is inappropriately understood, for instance in the case of criticism often levelled at advertising, that they manipulate consumers, encouraging

them to buy unnecessary products? The promotional message (in any of the promotional mix instruments) does not manipulate consumers but rather informs and educates them, pointing to benefits. It provides consumers with the 'right' information necessary to make a decision concerning the purchase of products or services. Information aimed at persuasion, triggering consumers' frustration to be eliminated by purchasing a product or service, is not characteristic of marketing communication; it is more a matter of perception, understanding and individual experience of the message.

ENDNOTE

Consumer protection is an area in permanent harmonisation with changes resulting from the turbulent development of all segments, especially science and technology. The rise of consumers' living standards 'pulls' innovations, and the offerers 'push' them into the market. An educated and informed consumer is capable of perceiving marketing not as an instrument of 'manipulation' but as an instrument of 'protection', helping him or her to find the appropriate product or service.

Conflict of Interests

The authors have not declared any conflict of interests.

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