COMPLIANCE WITH THE CONSUMER PROTECTION ACT IN SOUTH AFRICA: A CASE STUDY OF RETAIL COMPANIES IN KWAZULU NATAL

By

NATHAN BOSTON CHIRWA

(**Student No: 200704151**)

A dissertation submitted in accordance with the requirements for the degree of Masters of Commerce in the Department of Business Management in the faculty of Commerce, Administration and Law at the University of Zululand

Supervisor: Prof. E. Contogiannis

2012

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DECLARATION

I, Nathan Chirwa declare that the work "Compliance with the Consumer Protection Act in South Africa: A Case Study of Retail Companies in KwaZulu Natal" is my own work and that all sources quoted have been acknowledged by complete references. This work has not and will not be presented for the award of any degree at another University.

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N.B CHIRWA DATE

DEDICATION

This work is dedicated to my family, more especially to my brother, Mackson Chirwa for his everlasting financial support, my Mother, Donniana Ndawo, Sisters, Kondwani Chirwa, Elesiya Chirwa, Genie Chirwa, Mphaso Chirwa, Mavuto Chirwa, Nomvula D. Chirwa, Blessing Chirwa, Derrick and Christopher Mkandawire, and all the relatives who stood firm for their Social, Financial and Spiritual support.

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Lastly, I would like to thank my respondents, without whom this study would not have been possible.

LIST OF ACRONYMS

CPA-Consumer Protection Act

CP-Consumer Policy

GG-Government Gazette

PCM-Proposed Compliance Measures

DTI-Department of Trade and Industry

AGFR-Australian Government Final Report

JCAA-Japan Consumer Affairs Agency

BERR-Business Enterprise and Regulatory Reform

ACCC-Australian Competition and Consumer Commission

PCM-Proposed Compliance Measures

OECD-Organization for Economic Co-operation and Development

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ABSTRACT

Owners of businesses had different perspectives (particularly retailers) when the Consumer Protection Act was implemented. The majority of them thought that it will pose a threat or risk to many businesses while others thought that it would have a negative impact on the functioning and operation of their businesses. Similarly, others thought it would bring more challenges and few opportunities for ongoing businesses. To maximize full protection of consumers in the market, the Consumer Protect Act imposes heavy administrative fines on improper business conduct, which would put a burden on the businesses. This study seek to find out about the compliance measures taken by the Retail Companies regarding the Consumer Protection Act.

Retailers are targeted by disgruntled buyers because they are closer to the consumers than suppliers. Retailers are also the last link in the supply chain of goods and have closer relationship with consumers, hence there is a need to take necessary measures that would reduce or eliminate compliance risks, and that would serve as compliance measures within and beyond retail companies.

An exploratory study was conducted through survey instruments in which data was gathered just once in time. Probability stratified random and non-probability purposive sampling was used. A sample of 20 respondents (Managers and Supervisors) was drawn and self-administered questionnaires were given to each respondent.

The research findings indicated clearly that the majority of the Retail Companies were complying with the Consumer Protect Act, and they have compliance measures in place. Major findings have revealed that, the old consumer policies (instruments) used in retail companies were outdated and were not functioning in the interest or benefit of the consumer. As a result, they had to implement new instruments that enhanced the functioning of the CPA. Above all, the findings have also shown that, the implementation of the CPA did not have a negative impact on the businesses.

CHAPTER ONE

THE PROBLEM AND ITS SETTING

1. The Consumer Protection Act (CPA) 68 Of 2008

The protection of the consumer is very important in each and every market, particularly in the South African context. The more vulnerable consumers are, the more protection is required. In the past many consumers suffered losses, damages, injuries, or death caused by improper business practices, including the supplying and selling of hazardous products, product failure, misleading information, advertising, direct marketing, and poor instructions. These issues were more or less linked to producers, suppliers, retailers, and anyone in the supply chain who is in a position of selling goods or services directly to consumers (Carlin and Gervais, 2010).

The Act also acknowledges the reality of many South African consumers: high levels of poverty, illiteracy and other forms of social and economic inequality; living in remote or low-density population areas; being minors, seniors or other similarly vulnerable consumers; having a limited ability to read and comprehend advertisements, “agree”ments, instructions, warnings, as a result of low literacy levels, vision impairment or language impediments. The Preamble to the Act refers to the need to “fulfill the rights of historically disadvantaged persons and to promote their full participation as consumers” (Jacobs, Stoop and van Niekerk, 2010:2). The Act was introduced in 2008, and was signed by the President of the Republic of South Africa and published in the Government Gazette (GG) on 29 April 2009. The Act aimed to update old laws, combine existing and new laws under a meaningful umbrella, as up until then a lot of the law referring to consumers had been buried in other legislation that left consumers in vain (Jacobs *et al.,* 2010:2). The purpose, interpretation and application of the CPA are briefly introduced in the following page.

1.2 The Purpose, Interpretation and Application of the Act

1.2.1 The Purpose of the Act

Jacobs *et al.,* (2010:3) posit that existing consumers' protection measures were outdated and fragmented before the implementation of the CPA. The consumer protection framework had to be reviewed. South Africa needed a comprehensive outline to provide a framework of legislation, policies and government authorities to regulate consumer-supplier interaction. The Act now provides an extensive framework for consumer protection and aims to develop, enhance and protect the rights of the consumer and to eliminate unethical suppliers and improper business practices. Certain areas of common law regarding consumer rights have been codified by the Act and certain unfair business practices that were previously unregulated are now governed by the Act (Jacobs *et al.,* 2010:3).

The National Credit Act and the Consumer Protection Act contain extensive consumer rights for the protection of consumers. Section 3 of the CPA sets out the purpose of the Act, which is to protect and develop the social and economic welfare of consumers, in particular vulnerable consumers. Section 3(2) prescribes additional responsibilities for the National Consumer Commission to ensure the realisation of the purposes of the Act. The Commission must take all reasonable and practical steps to promote the purposes of the Act, to conduct research, to propose policies relating to consumer issues to the Minister. Furthermore, to produce an annual report regarding prescribed consumer matters for the Minister. It remains to be seen whether the Act will achieve its purpose and be as successful in consumer protection as the National Credit Act has proven (Jacobs *et al.,* 2010:4).

1.2.2 Interpretation of the Act: according to the Government Gazette (2009:16) the Act has its own interpretation clause, which provides that it must be interpreted in a manner that gives effect to the purposes that are set out in Section 3 of the Act. When interpreting the Act, a person, court or tribunal may consider applicable foreign law, international law and conventions, declarations or protocols. This method of interpretation may lead to a result different to that expected when the traditional rules of interpretation are applied to ascertain the intention of the legislature, which is the main aim of interpretation (Government Gazette 2009:18).

All the parties who are involved, for example, in a case, must be able to understand the interpretation in their original language.

1.2.3 Application of the Act

The Act has a wide field of application; for example, this Act applies to: (i) every transaction occurring within the Republic, unless it is exempted by subsection (2), or in terms of subsections (3) and (4); (ii) the promotion of any goods or services, or of the supplier of any goods or services, within the Republic; (iii) goods or services that are supplied or performed in terms of a transaction to which this Act applies, irrespective of whether any of those goods or services are offered or supplied in conjunction with any other goods or services, or separate from any other goods or services; and (iv) goods that are supplied in terms of a transaction that is exempt from the application of this Act, but only to the extent provided for in subsection (5) (Government Gazette, 2009:19).

1.2.4 The Act does not apply to the following: (a) transactions for the supply or promotion of goods or services to the State; (b) transactions in terms of which the consumer is a juristic person whose asset value or annual turnover, at the time of the transaction, is more than or equal to the threshold value determined by the Minister in terms of Section 6; (c) transactions that have been exempted by the Minister in terms of Sections 5(3) and 5(4); (d) transactions that constitute credit “agree”ments under the National Credit Act (the goods and services subject to such a credit “agree”ment are not excluded from the application of the Act); (e) transactions pertaining to services to be supplied under an employment contract; (f) transactions that give effect to a collective bargaining “agree”ment in terms of the Labour Relations Act; and constitution or (g) a collective “agree”ment in terms of Section 213 of the Labour Relations Act (Jacobs *et al*., 2010:9-10).

1.3 INSTITUTIONAL BACKGROUND

1.3.1 Game Stores

The first Game store was opened in Durban, South Africa in 1970. It was born out of the belief by its founders that shopping had become a tedious and boring pastime. Game is a promotionally discount retailer of predominantly general merchandise and non-perishable groceries for home, leisure and business use. Game is a subsidiary of the JSE listed, Massmart Holdings. Massmart is Africa's third largest distributor of consumer goods, the leading retailer of general merchandise, liquor and home improvement equipment and supplies, and the leading wholesaler of basic foods (Game, 2010:1). Massmart (2010:2) revealed that, under the leadership of Grant Pattison as the CEO, the company had over 1,367 stores worldwide in 2010, with 8 876 employees in South Africa. Game has a geographic presence in South Africa, Botswana, Ghana, Malawi, Mozambique, Namibia, Nigeria, Tanzania and Uganda.

1.3.2 Pick n Pay Stores

Pick n Pay stores are all over in South African rural areas, towns and cities in which a wide variety of food and beverages are sold. Ron (2011:14) reveals that Pick n Pay is South Africa's second biggest grocer. The Company originated in Cape Town and has more than 869 retail stores throughout South Africa as well as in Botswana, Mozambique and a small number of stores in Namibia. Pick n Pay is a public company incorporated in 1968 under the leadership of Raymond Ackerman. He has been with the company for 44 years, introducing to South Africa the concept of a powerful consumer orientation as the over-riding, first law of store management. The overall result was not only better supermarkets in SA, which compare easily with some of the best in the world, but also an impeccable record of long-term growth for the company. The company noted that someone who invested R100 in 1968 would be worth R1-million today (Branko and Tim, 2009).

Under the leadership of Nick Badminton (CEO), the Pick n Pay Integrated Annual Report (2011:51) showed that the company had a profit of R9 086.2 million at the end of 28 February 2011 with estimated sales of R51 945.8 million, and more than 34 484 employees working in 869 stores operating in Africa.

1.3.3 First National Bank (FNB)

Under the leadership of Michael Jordaan as the CEO of the First National Bank and Sizwe Nxasana as the CEO of the First Rand Banking Group, FNB provides personal, commercial and corporate banking services to more than six million customers across South Africa from large corporate accounts to accounts for teens and pensioners. It is the single largest contributor to First Rand's bottom line with profits accounting for more than 35% of the group's income in the financial years 2006-2010. The bank employs more than 29 672 staff; has 759 branches and mobile branches; and has more than 6 068 ATMs and Min-ATMs in Africa (Solidariteit, 2010:1; FNB Report, 2010:6-14; Careerjunction, 2012:1).

According to its website, FNB is the oldest bank in South Africa. The Acacia tree in its brand logo is a suitable representation of its history. It traces its origins back to the Eastern Province Bank, which was formed in Grahamstown in 1838. During this period, the government of the South African Republic desired to create a local commercial bank, due to the discovery of gold in Barberton and the Witwatersrand. The task of the bank was to focus primarily on financing agricultural development. The National Bank of the South African Republic Limited was registered in Pretoria in 1891 and opened its doors for business on 5 April of the same year. It was at this time that First National Bank became one of the strongest and largest banks in South Africa. First National Bank maintains banking subsidiaries which it owns wholly or in part, in Botswana, Mozambique, Namibia, South Africa, Swaziland, Tanzania and Zambia (Blakey, 2011; Businessdailyafrica, 2012; FNB, 2012).

1.3.4 Edgars Public Company

According to Edcon Annual Report (2011:3) Edgars is one of the largest non-food retailers in South Africa with a market share of the South African clothing and footwear market nearly twice that of their nearest competitor, and has been in operation for more than 80 years. Edgars was founded as a small retail shop in Johannesburg's Joubert Street in 1929 just as the world economy slumped into depression. Under the leadership of Stephen Ross as the CEO, Edgars operates more than 650 stores under a variety of fascia throughout Southern Africa, including South Africa, Botswana, Swaziland, Lesotho, and Namibia.

Their leading brands include Jet, CNA, Boardmans and Red Square, which are among the most recognizable retail brands in the Country. They are the number one or number two retailer in the majority of their product lines. The company's Edgars department store chain offers a full range of men's, women's and children's clothing, footwear, and accessories, as well as cosmetics and related department store items at 151 locations with 18 300 permanent employees, accounting for some 60 percent of its total revenues of R24.932 million in 2011 (Edcon Annual Report, 2011:3-4).

1.3.5 Empangeni Quality Cars Company

According to its website, Quality Cars Company originally started on a small scale in Pietermaritzburg in 1990 and has become the largest pre-owned dealership which calls Zululand its home. In 2005/2006, Quality Cars was chosen as a Golden Dealer with ABSA (this was an award given to the top 50 car dealers in South Africa). Under the leadership of Patrick Rajah as a Manager, the branch has 10 employees and stocks over 150 cars with a variety of brands such as: Toyota, Honda, Hyundai, Opel, Mitsubishi, Chevrolet, Ford, Mazda, Peugeot, Renault, VW, Fiat, and Nissan (Qualitycarsemp, 2011).

1.4 Problem Statement

There has been an outcry by many scholars (John, 2010: 2; Theretailer, 2010; Neville, 2010; Marshall & Keith, 2010:5) that the Consumer Protection Act will affect businesses if they do not comply. Information sharing organization, Executives Global Network (EGN), notes that "some of the country's top chief executive officers, chief financial officers and human relations executives had been meeting to discuss how their business could be negatively affected and how to prepare for the Consumer Protection Act" (Theretailer, 2010:1).

Similar thoughts are also shared by John (2010:2) that retailers or suppliers of goods will face a very big challenge, they will find it difficult to implement, and it will require behaviour changes across the organization. The penalties are also severe. A supplier or a retailer who is found by the Tribunal to have contravened the Act may face an administrative fine up to 10% of annual turnover, or R1million fine.

Neville (2010:5) added that, "under the new Consumer Protection Act, in terms of Section 61, consumers enjoy an array of protection, for example; a producer, importer, distributor or retailer of goods is liable to a consumer on a no-fault basis for harm". In other words, a consumer no longer needs to prove fault on the part of an importer, producer, distributor or retailer of goods in order to succeed in a legal claim in connection with any harm or loss suffered by a consumer that was caused by a defect in the goods supplied to the consumer.

In conclusion, Marshall and Keith (2010:1) assert that retailers are directly to be the ones targeted by disgruntled buyers, because they are closer to the consumers than suppliers further down the line. Retailers are also the last link in the supply chain of goods and have a very close relationship with consumers, and to maximize the full protection of consumers in the market, the Act imposes heavy administrative fines. Hence, this study seeks to find out how the Retail Companies identified above comply with the Consumer Protection Act.

1.5 Aim of the study

The main aim of this study is to examine and establish the compliance measures that have been adopted by retail companies in compliance with the CPA.

1.5.1 Objectives of the study

To achieve the aim mentioned above, the following objectives were developed:

1. To establish which instruments (policies) have been adopted by the retail companies in order to comply with the CPA.
2. To investigate whether they implement those instruments.
3. To establish the likely challenges or opportunities associated with compliance with the CPA.

1.5.2 Research Questions

1. What policies or instruments have been adopted by the retail companies towards compliance with the CPA?
2. To what extent do they implement those instruments/ policies?
3. What are the likely challenges they face while complying with the CPA?
4. What are the likely opportunities associated with the CPA?

1.6 Motivation and Benefits of the Study

There has been a concern that owners of businesses will experience a move away from how the business transactions were conducted before and after the implementation of the CPA. The implementation of the CPA enforced by the government in each business sector will change policies of the organizations to align with consumer's protection. John (2010:2) assert that the CPA will fundamentally change the way the business is done as it requires businesses to transform the way in which they interact with consumers and to ensure that all transactions with consumers are fair, reasonable, and honest.

The main benefit of the study will be to provide a complete picture of how the CPA works. This understanding is crucial to the provision of better services and the avoidance of liabilities that can create financial losses to the business. Furthermore, this study will help managers to determine which measures or procedures should be used for effective outcomes. This awareness will enable them to address problems and weaknesses before their competitors, and other factors will help them to improve, modify, or change their business conduct.

In South Africa many businesses operate under the retail industry as they provide end-goods or services to the consumers, and most of them trade locally and internationally. Therefore, it is very important to conduct research that will reduce compliance risks. Moreover, Game Stores is one of the biggest retailers in this country, therefore, it is also important to conduct research that will help to indicate or identify factors that will hinder or promote the growth of the organization. Finally, it is hoped that this research will also play a big role in ensuring that all Retail organizations take part in protecting consumers.

1.7 Significance of the study

The study will play a pivotal role and value in retail managerial professionals, entrepreneurs and the supervisory level of understanding consumers, suppliers, vendors and other concerned parties. The study is aimed at cautioning retailers to be more careful and sophisticated when dealing with consumers. Negligence, financial damage or injuries caused to consumers due to hazardous products would invite threats to many businesses, and might also lead to fatal financial instability within retail companies. That is why the information in this study will improve the level of service delivery to consumers by offering quality products which are free from defect. The content of this study will also be used to:

- help managers to align their company's strategy with the Consumer Protection Act in order to be more effective and productive;
- provide continuous assessment regarding compliance measures to managers and supervisors to monitor the things that may harm their businesses; and
- uncover difficult situations regarding the compliance risks and application of the Act and proposing ways of responding to such matters.

1.8 Summary and Structure of the Study

Chapter 1 introduces the purpose of implementing the Consumer Protection Act, the background of the study, the problem investigated, research objectives and the study benefits.

Chapter 2 reviews related literature and discusses under six main sub-headings: asymmetric information, the main aim of the Consumer Protection Act, Fundamental Consumer Rights, Models of Consumer Behaviour, Framework for a well-Functioning Market, and Consumer Law in Foreign Countries.

Chapter 3 begins with eight major “Proposed Compliance Measures” which might be useful to retail companies and/or other businesses. Later, the chapter discusses six major steps that would be helpful to control or reduce compliance risks faced by retail companies and other businesses.

In chapter 4, both qualitative and quantitative approaches are used as research methodologies. The researcher undertook an exploratory study because not much was known, as very few studies were conducted in this field. The target population of the study was Managers and Supervisors of the retail companies. The sample size was 20, in which probability and non-probability methods were used to select the participants. Interviewing Managers and Supervisors aimed to reveal more issues which were vital for the topic.

In chapter 5, the researcher analyses the data by using descriptive statistics through the programme known as (SPSS). The results are presented in the form of frequency tables and Bar charts. It further analyses all the data collected from the participants.

Chapter 6 provides conclusions and recommendations based on the findings of the study.

CHAPTER 2

AN OVERVIEW OF THE LITERATURE

2.1 Introduction

The literature review of this chapter is likely to be a major part of this research, hence the chapter starts with a short historical background of consumers' protection, followed by the key concepts, such as asymmetric information, the main aim of the Consumer Protection Act, Fundamental Consumer Rights, Models of Consumer Behaviour, Framework for a well-Functioning Market, and Consumer Law in Foreign Countries.

Prior to the implementation the CPA, consumers had little voice in issues that affected them. However, the commencement of the consumer movement and protection was based on the idea that the power of consumers as a group can balance the economic and political power of business and industry. The consumer movement has been led by many consumer advocates, people or organizations who worked on behalf of consumers. At the National level, they have worked to investigate business practices, expose unfair or dangerous situations, and encourage the passage of laws protecting consumers (such as the Consumer Protection Act, National Credit Act, and other laws to work effectively and efficiently) (Ross, Charles and Annette, 2008:27).

On 1st April 2011 South Africans became among the most protected consumers in the world in what has been described as a "game changing" piece of legislation that promises to completely shake up the way business is done in South Africa. The CPA affects almost every enterprise in the country (Standardbank, 2011:2). It firmly places the responsibility for ensuring adequate standards of goods and services in the hands of those who provide them. The consequences of not complying can be serious, and there is no room for complacency: every business that transacts with consumers needs to take a long, hard look at their products, services, business methods and terms of trade (Peter *et al*., 2007:1; Standardbank, 2011:2). That is why this study goes the extra-mile in finding out about compliance measures taken by the retail companies.

Progress in the consumer movement has been continual, with many important advances taking place in the early decades of the 1900s and again in the 1960s. These consumer advocates might be considered pioneers of consumer protection rights today. People such as Harvey Wiley, ‘a medical doctor’ proved that adding certain chemicals to food and drugs was dangerous. His campaign against mislabeling led to the passage of the Food and Drug Act of 1906. The novel written by Upton Sinclair, “*The Jungle*”, exposed filthy conditions in meat packing plants, leading to the passage of the Meat Inspection Act of 1906. Finally, Stuart Chase and F.J. Schlink published “*Your Money’s Worth”* in *1927*, a book demonstrating how misleading advertising affects consumers (Ross *et al*., 2008:27).

In 1988, the Consumer Affairs Act 17 of 1988 was established to protect consumers at large. The purpose of this Act is to prohibit any business practice that may directly or indirectly have the effect of harming relations between businesses and consumers, unreasonably prejudicing any consumer, deceiving any consumer, or unfairly affecting any consumer. The actions of the government can also help to define and enforce the rights and responsibilities of consumers. Since the government passed consumer protection laws, consumers can now seek legal actions and remedies when the laws are violated (Shawn, 2006:346; Ross *et al*., 2008:28).

One of key problems that affect many consumers today is the lack of adequate information. If a consumer lacks information as to where to buy the product, how much to pay, how long it will last, and what brand he/she is interested in buying, certainly, that consumer has inadequate information for purchase decision-making. Such consumers may be easily deceived by the sellers, and therefore, his/her rights became violated. The majority of people may ask the following questions: do all consumers have the rights to access information from traders? Why is it important for the consumer to have full access of acquiring information from the traders? Does the acquisition of the information have any impact on the growth of the organization? All the questions above can be answered by the term called ‘asymmetric information’. Asymmetric Information means one party is aware of the information while the other party is not. The notion of asymmetric information and sharing of the information is briefly discussed below.

2.2 Asymmetric Information

According to Davies (1998) asymmetric information exists when one party to the transaction has more information on the product, contract, or “agree”ment than the other party. In this case, retailers are more likely to know the pros and cons of the good, the features and defects, and what it can do and what it cannot. Buyers, in contrast, are likely to be less familiar with the good. This is so because the distribution of information is not equally available to everyone. Some people acquire more benefits from information than others, who are willing to incur higher search costs, and thus end up knowing more. In a market, sellers tend to have better information about the good than buyers as they produce or at least have control over the good. Consumers often gain possession of the good only after the purchase and any information obtained about the good prior to purchase is usually limited to that provided by the seller. The greater the degree of asymmetry, the greater the tendency for moral hazard and adverse selection is. This may eventually lead to market failure and create economic adverse effects (Aashwin, 2007:2; Davies, 1998).

Kalss (2007) suggested that, “consumers may not have full knowledge of the products and services they buy and sellers may have a limited knowledge of buyers, thereby creating a situation of imperfect information. Market failure can result from imperfect information as well as incomplete information, misrepresentation and misselling. Therefore, asymmetric information is a specific aspect of imperfect information where one individual to an economic decision has different information to that of another. Asymmetric information may cause the less informed market participant to conclude contracts to their own detriment. Therefore, asymmetric information is an imbalance in the quality or quantity of information possessed by two or more people. This asymmetry of information is a direct consequence of inefficient information search (Kalss, 2007).

Newton (2008) believed that the most efficient outcomes for economies generally occur when markets operate freely and in perfect competition. According to him, perfect competition is characterized by free entry to and exit out of the markets and the availability of perfect information to buyers and sellers. Cavallaro (2011:2) added that giving consumers greater access to information directly addresses the problem of asymmetric information. It is nearly impossible to provide every consumer with all the information they need to make an informed purchase decision, but if consumers can obtain enough information to make an educated decision, overall product quality can be increased, along with consumer satisfaction. Misselling and misrepresentation can be other problems (Van der Merwe *et al.,* 2007; Nienaber and Reinecke, 2009). The unequal distribution of information throughout the economy may give rise to three related problems, namely: adverse selection, moral hazard, and the principal-agent problem. These problems can be lessened through signalling and screening. These terms are closely linked to affect consumer's behaviour or purchase decision-making; therefore, a brief definition and discussion are introduced as follows:

Adverse Selection: according to Amosweb (2012:3) adverse selection is a problem that arises from asymmetric information. It occurs when an inefficient, bad, or adverse outcome of a market exchange results because buyers and/or sellers make decisions based on imperfect information. This commonly results in a market that exchanges lesser quality goods, known as "lemons" for high quality goods, known as "gems".

Moral Hazard: a second problem that results from asymmetric information is moral hazard. Moral hazard exists when one person (retailer) undertakes an action that is detrimental to another person (consumer) after the two have entered into an "agree"ment. The problem is that the person harmed (consumer) is unaware of the actions of the other (retailer), that is why there are serious penalties for failure to comply with the regulations set by the government. The best example where Moral hazard is most commonly seen is in the insurance industry. An insurance company provides automobile insurance based on a driver's record, average miles driven a week, number of accidents, and traffic tickets. However, once the driver has insurance, the driver knows that the insurance company incurs the cost of an accident then moral hazard occurs if the driver changes behaviour, drives faster, takes more risks, or fails to obey traffic laws. Yet the insurance company is unaware of this change in behaviour. If the insurance provider was aware of the change, then it would be inclined to charge different insurance premiums (Amosweb, 2012:3).

Principal-Agent Problem: the principal-agent problem is a disconnection or conflict between the goals and objectives of the 'principal' and those of the "agent" authorized to represent the principal. The problem arises because the principal does not have accurate information about the behaviour of the agent. This problem is common in corporations, when the owners (principals) hire managers (agents) to run the company. The agents, however, might make decisions that benefit themselves (e.g. higher salaries) that are unknown to and not in the best interests of the owners' profit (Amosweb, 2012:4). The Principal-agent theory was developed in economics to assess the difficulties associated with situations where a principal hires an agent to accomplish a task. The key difficulty in these relationships stems from the fact that principals and agents do not have perfectly aligned preferences, and there is asymmetric information (Robert, 2009:1-2). The notion of how these problems can be resolved through signalling and screening is illustrated below.

Spence (1973) came up with the idea of signalling. Signalling is an action initiated by the better-informed party to communicate their characteristics in a credible way to the less informed party and in doing so the opposite party is convinced of the value and quality of the products and the better informed party communicates attributes through signals that resolve the asymmetry of information. Signalling also refers to any activity by a party whose purpose is to influence the perception and thereby the actions of other parties. This presupposes that one market participant holds private information that for some reason cannot be verifiably disclosed, and which affects the other participant's incentives (Johannes, 2006:1; Spence, 1973:355-74).

The other route, screening mechanism, was put forward by Rothschild and Stiglitz (1976:629-649). They consider an insurance market where companies do not have information on individual customers' risk situation. The companies can offer their customers a variety of contracts that encourage agents to reveal accurate information about their risk situation through a process of self-selection. As Spence argues, there is no meaningful distinction between these two routes. Both of them improve the market outcome through transmitting information from one side to the other in a market (Rothschild and Stiglitz, 1976:629-649; Spence, 1973).

Yougui, Yong and Mengmeng (2006:1) states that, it is generally accepted that asymmetry of information causes substantial distortions of markets and is mainly responsible for significant adverse selection phenomena in the markets. Akerlof (1970) was the first one to develop a framework of market evolution involving the concept of asymmetric information. In his seminal work, Akerlof studies the impact of asymmetric information on market by introducing diverse quality of a good and supposing that buyers are not informed about the quality of the good before they buy it. He illustrates his idea with a simple example of the used car market (lemons) where the seller of a car knows more than any potential buyer. The buyers of cars cannot observe the difference between the two qualities (low and high) at the time of the purchase. However, they can only learn the real quality after owning a car for a period of time. This reveals that when buyers are not informed about quality of the goods before they buy it, the seller is in a position of rendering improper business practice, which is contrary to compliance with the Consumer Protection Act.

2.2.1 The significance of Information sharing

There have been few studies that examined information sharing between the retailer, manufacturer and consumer. The importance of information sharing is that it reduces the financial risks a seller or consumer would face before or after selling and/or buying of the product. The study of Yue and Liu (2006:646-667) showed that the manufacturer and retailer can also benefit from information sharing. Mukhopadhyay et al., (2008:950-958) provided a mechanism for the retailer to add value to the product. However, the retailer would voluntarily share their information with the manufacturer only if the cost of adding value is lower than the threshold value. In addition, Lages *et al*., (2005:1040-1048) conducted an empirical study to show that the relationship between an exporting firm and an importing firm is positively related to the amount of information shared.

The study of Gavirneni (2002:644-51) examined information sharing in a capacitated supply chain with fixed ordering costs and showed that the manufacturer can significantly benefit from information sharing when all consumers are well informed about the product offered by the manufacturer. Another advantage is that information sharing between the multi-channel manufacturer and the retailer has recently gained interest because many manufacturers, such as Dell Computers, Compaq, Sony, Panasonic, and Pioneer Electronics, in a variety of industries, have begun to use multiple channels (or sharing of information) to sell their products to consumers (Tsay and Agrawal, 2004; Kumar and Ruan, 2006; Seifert *et al*., 2006; Chen *et al*., 2008). In contrast, the study of Yue, Mukhopadhyay and Zhu (2006:1182-1192) found that information sharing between two firms selling complementary products is not always mutually beneficial. For example, if the total profit for the two firms in the information sharing is less than the total profit in the non-information sharing, then information sharing is not beneficial for the two firms.

2.2.2 Overcoming Asymmetric Information in the Market

Of course, there is more than one solution to the problem of asymmetric information. First, guarantees and warranties benefit both the firm and the consumer. The firm will benefit in the sense that offering guarantees and warranties will attract more customers with an assurance of higher quality goods and services, while consumers who, in the case of receiving a faulty product, can return the item or have it replaced. Second, by means of Industry Standards, firms may set requirements to produce goods and services that meet industry standards, thus attracting customers who might be able to properly evaluate and differentiate between high-quality and low-quality producers. Third, Liability Laws are part of consumer protection regulations as established by the government. Firms may be subject to penalties and fines if minimum industry standards are not met. Fourth, Social Regulation is a significant measure taken by the government when other consumer protection laws fail to provide adequate regulatory functions (Cavallaro, 2011:3; WordPress, 2010:7).

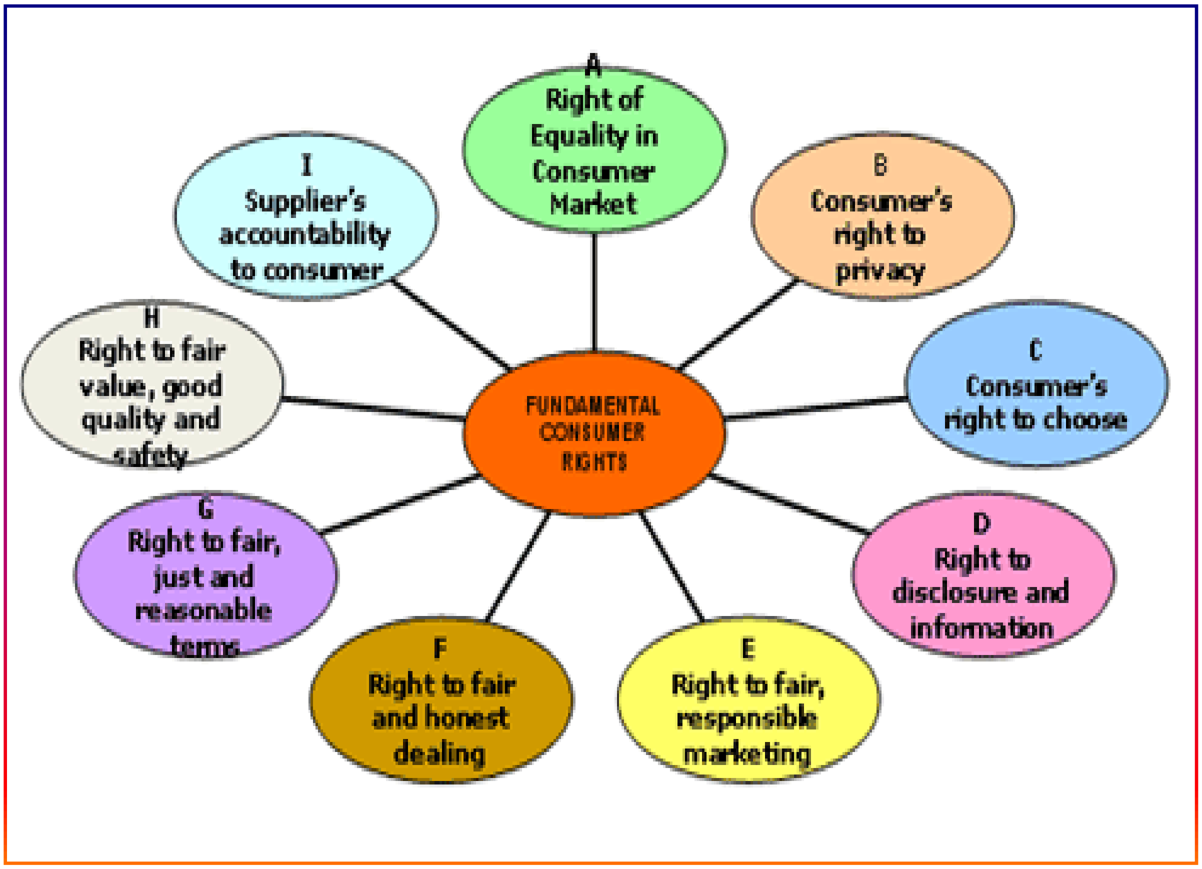
2.3 The Main Aim of the Consumer Protection Act

The main aims of the Consumer Protection Act are: to promote a fair, accessible and sustainable marketplace for consumer products and services and for that purpose to establish national norms and standards relating to consumer protection; to provide for improved standards of consumer information; to prohibit certain unfair marketing and business practices; to promote responsible consumer behaviour; to promote a consistent legislative and enforcement framework relating to consumer transactions and “agree”ments; to establish the National Consumer Commission; to repeal sections 2 to 13 and sections 16 to 17 of the Merchandise Trade Mark Act, 1941 (Act No. 17 of 1941), the Business Names Act, 1960 (Act No. 27 of 1960), the Price Control Act, 1964 (Act No. 25 of 1964), the Sales and Service Matters Act, 1964 (Act No. 25 of 1964), the Trade Practices Act, 1976 (Act No. 76 of 1976), the Consumer Affairs (Unfair Business Practices) Act, 1988 (Act No. 71 of 1988), and to make consequential amendments to various other Acts; and to provide for related incidental matters (Government Gazette, 2009:2,17).

Megan (2011a) reported that “the far-reaching new Consumer Protection Act kicked in, thus moving power away from business to ordinary people”. Megan (2011b), Jacobs *et al*., (2010:18) and Government Gazette (2009:3-6) reveal that there are nine Fundamental Consumer Rights, namely the rights to: equality in the consumer market; privacy; choice; disclosure and information; fair and responsible marketing; fair and honest dealing; fair, just and reasonable terms and conditions; fair value, good quality and safety; and the supplier's accountability to consumers. Below is the diagram of the Fundamental Consumer Rights

2.4 The Fundamental Consumer Rights: A Critical Overview of the Rights

Figure 2.1 the Nine Fundamental Consumer Rights



Source: (Coetzee and Smith, 2009)

2.4.1 The Right of Equality in the Consumer Market (Section 8 of the Act)

Protection against discriminatory marketing is the first consumer right that is provided for under the right of equality in the consumer market. Section 8 of the Act is important in South Africa's new constitutional dispensation, in which the state is committed to the goal of achieving equality. At its most basic and abstract, the formal idea of equality is that people who are similarly situated in relevant ways should be treated similarly. The right to equality prohibits the supplier of goods and services to discriminate unfairly against a person or category of persons in relation to access, enforcement of judgment, or termination of an “agree”ment (Jacobs *et al*., 2010:18).

2.4.2 The Consumer's Right to Privacy (Section 14)

The right to privacy in terms of the Act comes from Section 14 in the Constitution (Jacobs *et al*., 2010:20). Shawn (2006:357) said that, our court has defined the right to privacy "as the right to determine destiny of private facts and includes the right to decide when and under what conditions private facts may be made public". Section 14 of the constitution states that everyone has the right to privacy, which includes the rights not to have the privacy of their communications infringed. Consumers may now terminate transactions resulting from direct marketing without reason or penalty. The Act entrenches the consumer's right to refuse or accept the advances of direct marketing. "Direct marketing" means to approach a person, either in person or by mail or electronic communication, for the direct or indirect purpose of promoting or offering to supply goods to that person in the ordinary course of business (Jacobs *et al*., 2010:20).

A consumer, for example, has the right to block the receipt of flyers or brochures in his/her letterbox or unsolicited phone calls pre-emptively. The consumer may also cancel an "agree"ment within five business days after the date on which he/she concluded the "agree"ment or on which he/she received the goods. The "agree"ment may be cancelled by written notice of cancellation to the supplier or in any other recorded form. No person may charge a consumer a fee for demanding a supplier to refrain from initiating any further direct marketing or for registering a pre-emptive block. Section 12 relates to direct marketing to a consumer at home; the Act provides for a prohibited period during which direct marketers may not contact a consumer at home for promotions (Kirby, 2009:29; Jacobs *et al*., 2010:21).

2.4.3 Consumer's Right to Choose: Section 13(1)

The following rights are granted to the consumer: the right to select suppliers and renewal of fixed-term "agree"ments; the right to pre-authorisation of repair or maintenance service; the right to cooling-off period after direct marketing; the right to cancel advance reservation, booking or order; the right to choose or examine goods; the right with respect to delivery of goods or supply of service; and the right to return goods. Section 13(1) of the CPA states that a supplier may not group or bundle goods by requiring, as a condition of entering into an “agree”ment, that the consumer must buy other goods or services from that supplier, or enter into an additional “agree”ment or transaction with the same supplier or designated third party, or “agree” to purchase any specific goods from a third party. The word “bundling” refers to a case, for example, in which a pair of socks is offered for sale together with a pair of shoes and in which the supplier requires the consumer to buy them in combination. Bundling is not entirely prohibited by the Act, but is merely regulated. (Jacobs *et al*., 2010:22; GG, 2009:4-6). It is worth noting here that another new law will push unsolicited direct marketing from an opt-out system towards one based on ‘opt-in’. This means that other companies, such as a cellular company will still be able to direct market to a customer it has sold a phone or contract to in the past on an opt-out basis. However, it will not be allowed to contact someone it has no prior business relationship with, unless the person has expressly “agree”d to this (opted-in) (Andrew, 2010:2).

2.4.4 Right to Disclosure and Information (Section 22)

The most interesting section 22 applies to all consumers, as the section gives all consumers the right to: disclosure and information; information in plain and understandable language; disclosure of price of goods or services; product labelling and trade descriptions; disclosure of reconditioned or grey market goods; sales records; disclosure by intermediaries; identification of deliverers, installers and others (GG, 2009:3-6). Nicholas (2011:1) identified section 25(2) of the CPA, which reviews clearly about grey imports goods. Grey Goods or parallel imports are goods that have been imported into a country through unofficial or unauthorized distribution channels. Grey goods are not illegal, but because they have not been imported through official channels, if the good breaks, the official supplier will refuse to uphold the warranty. This problem is further compounded when the supplier of the grey good also refuses to uphold the warranty. A supplier of grey imports must display a “conspicuous notice” on the goods that it is in fact a grey import.

Further, a question can be raised, how do these laws affect consumers who have bought goods from outside the country? If the consumer has bought a good while outside of the country the CPA will not apply to that transaction, and so they cannot rely on its provisions to protect them. An interesting question may also arise when a consumer buys goods online from a retailer located outside of South Africa. If the consumer is using a computer in South Africa when purchasing the goods, at least part of the transaction must be taking place in South Africa. However enforcing these laws on foreign companies, especially those that have no presence in South Africa could be problematic (Nicholas, 2011:2).

2.4.5 The Right to Fair and Responsible Marketing: section 5(3)

Jacobs *et al*., (2010:34-35) suggest that the aim of this right is, *inter alia*, to create fair business practices in respect of advertising and selling. One of the most important business practices is to be truthful in advertising and selling. Creating fair business practices in this regard will ensure that real competition between suppliers is made possible, which in turn leads to lower prices and better products. It will also lead to greater trust by consumers and better relationships between consumers and suppliers in the supply of goods and services. The right also deals with general standards for marketing of goods or services to consumers. Consumers are protected from improper business practices which include: bait marketing; negative option marketing; direct marketing; catalogue marketing; promotional competitions; referral selling; and “agree”ments with persons lacking legal capacity (Megan, 2011a).

2.4.6 Right to Fair and Honest Dealing (Section 40)

To improve transparency and maintain closer relationships, one of the aims of the CPA is to protect consumers from unconscionable conduct, unfair, deceptive representations, fraudulent conduct, and/or any other deceptive techniques. The word “unconscionable conduct” in essence, means conduct having a character contemplated in Section 40, or other improper or unethical conduct that would be improper or unethical to a degree that would shock the conscience of a reasonable person. Section 40 also prohibits the use of: physical force against consumers; coercion; undue influence; pressure; duress or harassment; unfair tactics; or any similar conduct in connection with the marketing and supply of goods or services to consumers (GG, 2009:6; Jacobs *et al*., 2010:46).

2.4.7 Right to Fair, Just & Reasonable Terms and Conditions

Under this section, consumers are protected from Unfair, unreasonable or unjust contract terms; notice required for certain terms and conditions; written consumer "agree"ments; prohibited transactions, "agree"ments; and powers of court to ensure fair and just conduct. In addition, Theretailer (2010:2) states that subsection 9 of the Act also prohibits certain 'unfair contracts and business practices' which is monitored by a new consumer tribunal that was amended and implemented just two years ago. Bounded on all sides by a democratic state, freedom of contract forms the basis of South African contract law. The reason is that the parties have come to an "agree"ment, and the basis of the law of contract is that the law will enforce their "agree"ment. Therefore, no paternalistic intervention by courts on the basis that an "agree"ment or a clause appears to be unreasonable existed in a previous era in which contracts were negotiated and parties were in an equal bargaining position (Jacobs *et al*., 2010:53).

2.4.8 Right to Fair Value, Good Quality and Safety (Section 55)

In the ambit of Section 55, consumers are entitled to the following rights: consumers' rights to demand quality service; consumers' rights to safety and good quality goods; implied warranty of quality; warranty on repaired goods; warning concerning fact and nature of risks; recovery and safe disposal of designated products or components; safety monitoring and recall; and liability for damage caused by goods (GG, 2009:3-6). The consumer's rights to safe quality goods include the right to receive goods that: (a) are reasonably suitable for the generally intended purposes; and (b) are of good quality, in working condition and free of any defects.

The right to safety and quality goods applies to all suppliers be liable for supplying unsafe goods, a product failure, defect, or hazard in any goods. This means that any producer, importer, distributor or retailer is liable for any harm their product might cause. For example, if there are inadequate instructions or warnings, the entire supply chain would be held liable no matter who is at fault. The Act states that “every consumer has the right to receive goods that are reasonably suitable for the purposes for which they are intended and are of good quality” (Theretailer, 2010:2).

The right to implied warranty of quality on all goods sold is found under section 56 of the CPA. This implied warranty allows consumers to return faulty goods and get the seller to repair it, replace it or get a full refund within 10 days (Nicholas, 2011:2). Recall products and liability for damages introduces strict product liability for suppliers or any business that markets goods and services. However, previously product liability was limited to manufacturers of goods only, but under the new Act, any business is included. One of the biggest threats to a company's bottom line is product recall. The costs of recalling a product can be astronomical and this, in addition to reputational damage, could force a business to close its doors.

The regional manager of Liabilities Group, Marshall, at Chartis South Africa gave Toyota as an example. “Toyota made global headlines over its recall of cars with faulty accelerators with estimates that the recalls will cost the company U$2 billion (R14.5 billion)”. Toyota, fortunately had liability insurance, although it was not known how far this cover extended (Marshall and Keith, 2010:2). Further, Marshall suggested that South African companies can learn from this because everyone is becoming more litigious as a society and consumers become more educated about their rights. Companies could not afford to wait until a liability action was brought against them as they needed to have protection in place. Product recall policies generally cover the key expense areas such as costs to inspect, withdraw, or destroy the product; and communication, such as advertising and media messaging (Marshall and Keith, 2010:2)

2.4.9 Supplier's Accountability to Consumers (section 65)

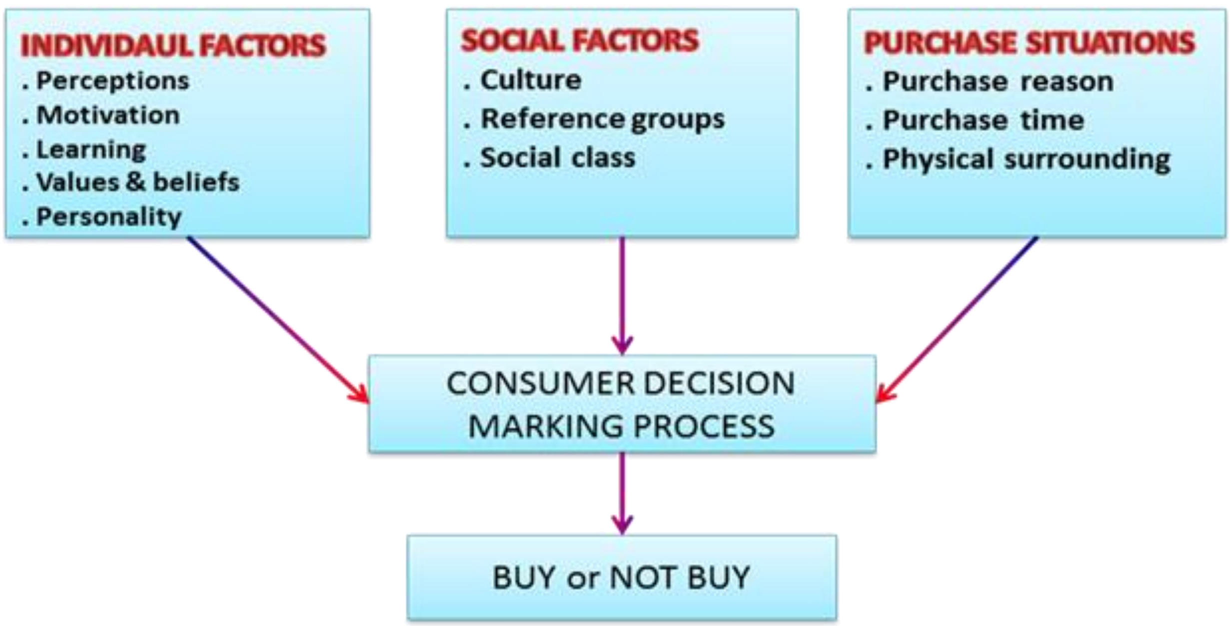
This right protects consumers from improper: Lay-by's; prepaid certificates, credits and vouchers; prepaid services and access to service facilities; supplier to hold and account for consumer's property; deposits in respect of containers, pallets or similar objects; and return of parts and materials (GG, 2009:3-6). Subject to subsections (3) and (4), a consumer has the right to cancel at any time for any advance booking, reservation or order for any goods or services to be supplied.

Jacobs *et al*., (2010:90) defined a 'lay-by' as an "agree"ment in which the supplier "agree"s to sell goods to a consumer, accept the purchase price in periodic instalments, and retain the goods until the full price has been paid. Until the consumer takes possession of the goods, the instalments paid remain the property of the consumer subject to section 65 of the Act and the supplier bears the risk of such goods. The money may not, for example, be used to sustain the supplier's cash flow, because the instalments are to be held in trust for the consumer. Suppliers may have to insure goods sold under lay-by until the consumer takes delivery thereof in view of the fact that the supplier bears the risk of the goods until they are delivered to the consumer. Since consumers are influenced by certain behaviour and/or factors of whether to buy or not to buy the product, we shall now look into models of consumer behaviour and the link between these models and the work of the Consumer Protection Act.

2.5 A Model of Consumer Behaviour in the Market

The main purpose of the Consumer Protection Act is to protect consumers whenever they buy goods and after purchasing those goods. The Act also gives the right to consumers to ask for information before and after the goods have been purchased. The theoretical model of Lamb *et al*., (2008:67) reveals that consumers' actions with regards to purchase behaviour are influenced by three sets of variables: individual factors, social factors and prevailing purchase situations.

Figure 2.2 A model of consumer Behaviour



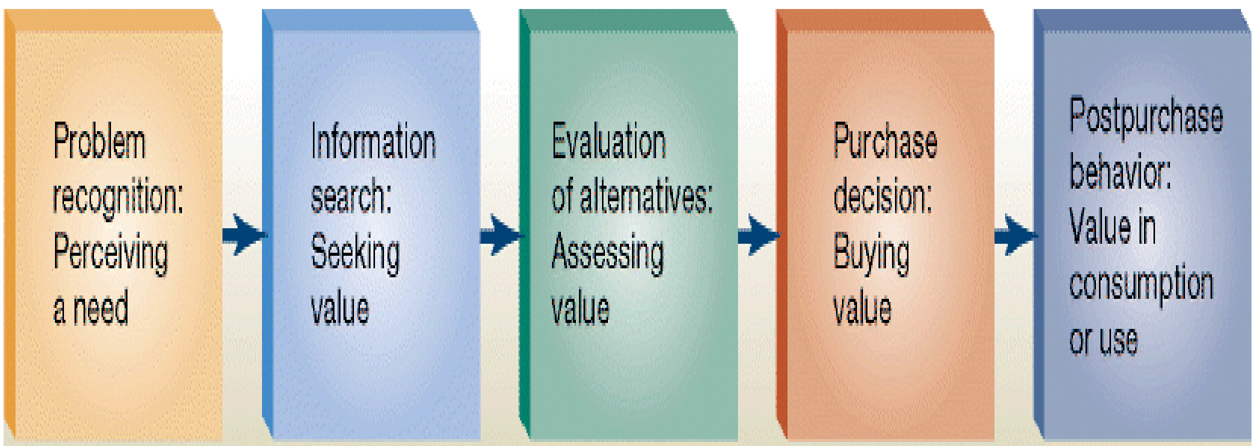
(**Source: adapted from Lamb *et al.,* 2008:68**)

The consumer behaviour model describes how consumers make purchase decisions and how they use and dispose of the purchased goods or services. Therefore, knowing and understanding how consumers make purchase decisions can help us to know when and where the law applies in protecting consumers. For example, the law can be applied when the manufacturer advertises a car's maintenance fee as free service, while in reality it is not free. In other words, marketers or sellers can change the attitudes and influence consumer buying decisions (Lamb *et al*., 2008:67). Suppliers or retailers can use same means to change the attitudes and influence consumers buying behaviour decisions.

2.5.1 A Model of Consumer Decision-Making Process

Some of the best-known consumer decision-making models were developed in the 1960s and 1970s. Howard developed the first consumer decision-making model in 1963 (Howard, 2005). Howard also developed other model in 1969 and 1990, followed by Blackwell and Miniard's model (Engel, Blackwell, and Miniard, 2007). Those consumer decision-making models that are still used today reflect the consumer decision process in terms of the interrelationship of concepts and the flow of activities. The most widely used consumer decision-making theory includes five stages as defined by Mowen and Minor (2006): recognizing problems, searching for solutions, evaluating alternatives, choosing among options, and evaluating the outcomes.

Figure 2.3 A Model of Decision-Making Process



Source: Adapted from (Schiffman and Kanuk, 1997; Solomon, 1996; and Lamb *et al*., 2008)

Consumer Decision-Making is defined as the behaviour patterns of consumers that precede, determine, and follow the decision making process for the acquisition of need satisfying products, ideas or services. During the consumer decision-making process, not only do consumers make decisions regarding which brand options to choose but they also decide what quantity of the good to purchase. Consumers make decisions in order to reach their goals, which include making the best choice among alternative possibilities, reducing the effort in making the decision, and minimizing negative emotions (Sulistio, 2011:1). A brief introduction is outlined below, particularly, on how the CPA can be applied in each stage of the consumer decision-making process.

Problem Recognition: in this 1st stage, the consumer buying process begins when the buyer recognizes a need or problem (Lamb *et al*., 2008:69). For example, Linda bought a Laptop from a retail shop; she later recognized a problem that her Laptop is not performing as well as she thought it should. This is one of the problems that consumers encounter all the time. Linda cannot fix the problem herself, in other words, the manufacturer or the retailer must be involved, from which the laptop was bought. Most consumers find difficulties when returning faulty products to the shops they bought them from and, this is where the Consumer Protection Act applies.

Information Search: the 2nd stage of the model state that, 'when a consumer discovers a problem, he/she is likely to search for more information' (Lamb *et al*., 2008:70-71). In our example, Linda may pay more attention to product information of a personal computer. She becomes more attentive to computer features, computers purchased by her friends or family members, and peer conversations about computers. Or, she may more actively seek information by visiting retail computer shops, talking to friends, or reading computer magazines. As Linda proceeds to search for more information, she can also seek for information about legal advice if the fault of the computer was with the retailer at the time she bought the Laptop.

Evaluation and Selection of Alternatives: in stage 3, the consumer tries to solve the problem and ultimately satisfy his/her need. After collecting information and compiling an evoked set of alternative products, the consumer is ready to make the decision. In other words, the consumer will use the information stored in memory and make a judgments either to buy the product or not (Lamb *et al*., 2008:70-71). In our example, Linda can use information stored to make her judgment. She can either choose or select a Legal law that protect consumers, or seek an agent to stand on her behalf.

Purchase: what happens in stage 4 is that, once the consumer is satisfied with the information gathered, he/she moves on to the process of buying the product. In our example, Linda may take a final decision on whether to take the retail shop (where she bought the Computer) to court or to buy a new Laptop from the another shop or choose another new brand name. Linda can also choose to hire private Legal Institutions such as Scorpions or Legal Wise for her case.

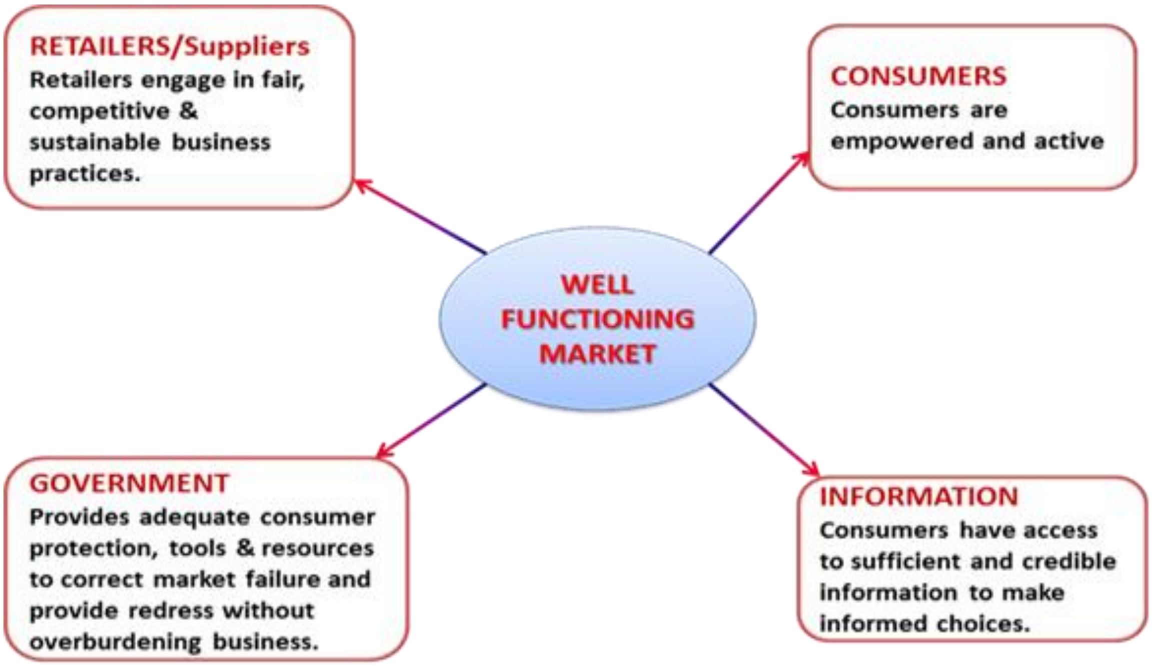
Post-purchase Evaluation: stage 5 state that, when buying products, consumers expect certain outcomes or benefits to accrue from the purchase. How well these expectations are met determines whether the consumer is satisfied or dissatisfied with the purchase. Dissatisfied consumers rely on word-of-mouth to reduce cognitive dissonance by letting friends and family members know they are displeased (Lamb *et al*., 2008:72). From our example, Linda is one of the extremely dissatisfied consumers, and according to the ambit of section 55 of the CPA, a consumer has the right to return faulty goods and get the seller to repair it, replace it or get a full refund if his/her expectations have not been met. Therefore, Linda has the right to have her Laptop repaired or replaced, be refunded or to take legal action.

In conclusion, the story of Linda can also give us another overview of how the market should be functioning legally, particularly, when consumers are not satisfied with the product or services offered. Therefore, a well-functioning market would include: competition in product quality, information sharing, protection of consumers, and/or involving government and other independent bodies that will improve the functioning of the market. Below is a framework for a well-functioning market which includes government, retailers or suppliers, consumers and information sharing.

2.6 A Framework for a Well-Functioning Market

According to the Department of Trade and Industry (DTI) (2008:4), a well-functioning market would have sellers who must act fairly, competitive and honest. Consumers must be empowered and the government should provide adequate protection.

Figure 2.4 (**A Framework for a Well-Functioning Market**)



(**Source: Department of Trade and Industry, 2008:4**)

2.6.1 Retailers/suppliers

Fair, Responsible and competitive markets are important because:

- They enhance the international competitiveness of export oriented companies due to the regulatory environment prevailing in international markets;
- They protect ethical business from unfair competition by unethical business;
- They lead to improvements in product quality and service levels; and
- They empower economic citizens to function effectively and efficiently in the market through access to better product and transaction information, education, and prevention of detriment (DTI, 2008:5).

2.6.2 Consumers: empowering consumers will actively promote a fair, efficient and transparent market place for consumers and business; it will also provide a consistent, predictable and effective regulatory framework that fosters consumer confidence and promotes better customer service in the public and private sector.

2.6.3 Information: consumers must have access to sufficient and credible information to make informed choices. Consumers with full market information about the product or services are more aware of their buying needs (DTI, 2008:4-6).

2.6.4 In terms of the government laws, Jacobs *et al*., (2010:3) allege that the previous consumer protection measures and laws were outdated and fragmented. The consumer protection framework had to be reviewed. South Africa needed a comprehensive outline to provide a framework of legislation, policies and government authorities to regulate consumer-retailer interaction. The Act now provides an extensive framework for consumer protection and aims to develop, enhance and protect the rights of the consumer and to eliminate unethical suppliers and improper business practices. In short, a market that does not function properly lacks government intervention when issues between sellers and buyers arise. In such a market, consumers are not protected and they do not excise their rights, as in the case of Linda narrated above.

Soon after the implementation of the CPA, different views from different business people and organizations were taken into consideration as part of findings for this study, particularly, from the side of retailers, entrepreneurs, and business writers, who really thought that the implementation of the CPA would have a negative impact on businesses. These issues are briefly discussed below.

2.7 The Impact of the CPA on Businesses in South Africa

Loyiso (2010:1-2) reported that the meeting held on 21st and 22nd of June 2010, by the Johannesburg Institute of Directors was aimed to warn business leaders to comply with the new Consumer Protection Act and to avoid being fined or sentenced to a prison term. Failure to comply with the provisions of the Act can result in companies being fined 10% of their annual turnover or company bosses being sent to jail. Natasha Bouwman, the institute's spokeswoman, opined that, this legislative provision would cushion consumers who were most vulnerable to exploitative practices by business people.

The consumer law specialist Neville, (2010:5) also “agree”d that, most of South African’s businesses seem to be unaware that the most draconian of the provisions of the new Consumer Protection Act will transform their businesses. Hidden away at the back of the Act is a provision of Section 61, which applies to any goods, supplied on or after the early effective date of 1st April, 2011. In this section 61, a producer, importer, distributor or retailer of goods is liable to a consumer on a no-fault basis for harm, including death, injury, physical damage or associated economic loss, which was caused by unsafe or defective goods**.** Neville warned all suppliers covered by the Act including manufacturers, service providers, franchises, NGOs, trade unions and municipalities, to start preparing for its implementation (Neville, 2010:5).

“What some companies still do not realize is that there is no grace period; they also do not realize that not only their actions, but also their words have to fall in line with the legislation,” said Ann Coetzee, an independent consultant on the Consumer Protection Act (Mazars, 2011:2). Companies need to ensure that staff members who interact with customers in their daily operations are fully-versed on all relevant aspects of the Act, and fast, as they will have to take responsibility for every promise staff make. Ann Coetzee further advised retail companies to do a thorough analysis of all their risks in terms of the Act and to put corrective measures in place sharply (Mazars, 2011:2).

Shepstone and Wylie (2012) posit that the Consumer Protection Act presents substantial risk to business and although many retailers and suppliers have tried to comply with the broad scope of the Act the late publications of the regulations has made it difficult to manage business risks. The Head of Retail Council and Legislative Affairs at the Consumer Goods Council of South Africa, Patricia Pillay said in her statement, “one of the biggest risks that can be faced by many retailers is the high turnover of staff in the industry or organization; a new staff member, who had not yet been trained on the Act, could give incorrect information to a customer that might have huge implications for the company” resulting in financial loss and higher risks for the retail businesses (Shepstone and Wylie, 2012).

Rosalind Lake, a director at Law firm ‘Deneys Reitz’, also added that, CPA has increased risk for business and presented massive challenges in terms of implementation in some areas (Shepstone and Wylie, 2012). Lake said that “the new legislation put a lot of danger risks on producers, suppliers and retailers as its scope is very broad, covering the promotion of the products, contracts, warranties and liabilities”. South African consumers may be protected from unfair business practices only if the members in the supply chain comply with the CPA (Shepstone and Wylie, 2012).

More issues were also shared by Massmart (owner of Game store, Macro, and Builders’ Warehouse) that his Company has spent over R1.5 million directly in implementing the Act, excluding travel and training hours. This was money well invested as companies did not want to face the penalties that could be imposed in terms of the Act for non-compliance. Lake concluded with the following words: “for smaller businesses and enterprise implementing the Act was hugely problematic, because there wasn’t enough information available on how to implement their provisions; but, Big Companies had had teams of attorneys advising them on the new Act, and how it functions” (Shepstone and Wylie, 2012; Wendy, 2011).

To minimize the risks that many businesses could face, Coetzee, as cited in (Shepstone and Wylie, 2012) suggests they should ensure that their public and product liability insurance protects their businesses against unforeseen lawsuits. Wils Raubenheimer, partner at Mazars, says suppliers and retailers must protect themselves from exorbitant penalties by putting sound measures in place to ensure smooth and quick compliance with the Act, and shield their businesses from the inherent risks that accompany non-compliance. The Channel Executive for Massmart Graham Rebello, said that buyers and sellers will be scrutinizing product packaging, labeling, instruction manuals, and warnings to ensure customers have the information required to make informed decisions (John, 2012:2; Mazars, 2011:2; Shepstone and Wylie, 2012;).

2.7.1 The CPA and Online Purchase with Retailers

All of us know that internet has no physical boundaries and no territorial borders. As a result many retailers or suppliers sell their goods online. There has been a strong growth in the use of the internet as a means of retailing goods to consumers over the recent years. The findings of Shawn (2006:346) and those of Australian Government Final Report (2009:90) reveal that online transactions are continuing to grow; for instance, in 2006, 5.9 million Australians were using the Internet to shop online with transactions totalling over $11 billion. However, there are also particular issues associated with online shopping which are not similarly faced by consumers shopping offline in a store and in person. Such issues include: difficulties in identifying or contacting the supplier for pre-sale enquiries and after-sale support, inability to physically examine goods, payment security and privacy concerns. This has led to concerns about the enforcement of various laws, such as those relating to enforceability of contracts entered into over the internet and the liability for payment of any damage or losses caused to the consumers. Unfortunately, the CPA only protects consumers who transact within the country. However, there are existing legal principles that relate to trade marks, copyright, privacy and defamation which specifically deal adequately with the challenges posed by the internet and online purchase.

2.8 The Overview of Consumer Law in some Foreign Countries

The study took a review and analysis of how consumers in foreign countries are protected compared to South Africans. Japan, United Kingdom and Australia, were the countries chosen for this study. From these three countries, this study will only focus on the functions of the Consumer Laws and/or Fundamental Consumer Rights; in other words, how do they work, or is there any difference between South African Consumer Law or Fundamental Consumer Rights with those of Foreign Countries, or there is no different? If therefore, there is a difference, what is it that the government should do to adequately protect consumers just like those in developed countries? But if there is no difference, then South African consumers are fully protected just like those in developed countries where Consumer Laws were first implemented in 1960s.

2.8.1 The Consumer Policy Regime in Japan

Introduction

The report released by the Japan Consumer Affairs Agency ‘JCAA’ (2009) states that, during the expansion of mass production and the rapid industrial development of the high economic growth era from the mid-1950s and 1960s, many incidents occurred that hurt consumers due to defective products and false labeling. Public interest in product safety increased markedly, and consumer awareness also grew. Against this background, the Japanese government's structure of consumer policy regime was established for the first time in the mid-1960s, and has continued to develop ever since. In May 1968, the Consumer Protection Fundamental Act was established as the basic framework for consumer policies, aimed at eradicating negligence.

In the 1970s, product safety became more important. During that time, multilevel marketing and other developments affecting consumer affairs also emerged. In such circumstances, sales methods for products and sales contracts became more important sources of consumer problems than did the quality, performance, and safety of products. In the 1980s and thereafter, the nature of consumer affairs changed, they became more complex. Problems related to multiple debts and asset-building transactions, to take just two examples, increased. To address these new issues, measures to rationalize consumer credit transactions and consumer contracts were taken. Also, laws and ordinances corresponding to problems involving asset-building transactions were established, to completely protect citizens. In the 1990s and onward, some general civil rules for relations between consumers and business enterprises were also established (e.g., the Product Liability Act and the Consumer Contract Act) (Japan Consumer Affairs Agency, 2009).

The Consumer Basic Act: the Consumer Protection Fundamental Act, which was enacted in 1968, functioned as the basic framework for Japan's consumer policies. But because the economic and social conditions surrounding consumers have changed drastically, a bill to revise the Consumer Protection Fundamental Act to meet current economic and social conditions was submitted to the Diet and enacted in May 2004. The name of the Act was changed to the Consumer Basic Act. This was so because the government wanted to ensure that all consumers are fully protected by the law and that, they are in the safe hands without fear (JCAA, 2009).

Japan's Product Liability Act: Japans' Product Liability Act took effect in July 1995. If life, body, or property of a consumer suffers damage caused by the defect of a product, the Act stipulates that the manufacturer must compensate the consumer for loss suffered. To create measures to prevent consumers from suffering damages and to make the redress of damages more effective, various measures such as those related to enriching and supporting alternative dispute resolution procedures outside the court system, improving the cause investigation system, and provision of information which included information on product-related accidents, and enriching product safety education were promoted (JCAA, 2009).

Japan's Consumer Contract Act: the Consumer Contract Act was promulgated in May 2000, and enforced in April 2001, in light of the recent rapid increase of the number of such conflicts around the area of dissolution and cancellation of consumer contracts concluded between consumers and business. The Act sets out new civil rules to contribute to fair and smooth resolution of conflicts related to consumer contracts. The Act includes a rule to enable consumers to cancel contracts when they misunderstand or are confused about certain activities by business enterprises and a rule to enable consumers to nullify all or part of provisions of contracts that unfairly impair the interests of consumer (JCAA, 2009). In short, you have seen that the Consumer Contract Act of Japan was promulgated, in an effort to prevent consumers from suffering damages and to make the redress of damages more effective; so too, the South African Department of Trade and Industry carries out similar responsibilities of ensuring that the CPA functions effectively and efficiently in protecting consumers from losses or damages caused by defective products.

2.8.2 The United Kingdom Consumer Act of 1987

Product Liability and Safety Provisions in the UK

In the United Kingdom, the Consumer Protection Act came into force on 1st October, 1987. The general safety requirement under section 10 of the Consumer Protection Act of 1987 has been largely superseded by the General Product Safety Regulations 1994 (the GPS Regulations), which came into force on 3 October 1994. The aim of this Act is to help safeguard the consumer from products that do not reach a reasonable level of safety. Clearly the consumer gains from this legislation, but forward-looking firms will also recognize that it is in their interest to outlaw unfair competition from traders who cut corners on safety (DTI, 2010:3, 9).

Consumer Protection from Unfair Trading Regulations of 2008

According to Business Enterprise and Regulatory Reform (BERR) (2008:2), the consumer protection from Unfair Trading Regulations of 2008 came into force on 26 May, 2008. The Regulations introduces a general duty of not trading unfairly, and seeks to ensure that traders act honestly and fairly towards their customers. Many detailed rules around trade descriptions and misleading price indications are also being replaced with a general ban on unfair trading. This broadly means traders will have to act in a way that enables the average consumer to make free and informed purchasing decisions. Businesses that deal fairly and honestly with their customers may not need to change the way they work at all, but to insure they are treating their customers properly. The new regulations also ban traders in all sectors from using unfair commercial practices towards consumers.

In the United Kingdom, Product Liability means: (i) people injured by defective products may have the right to sue for damages; (ii) in the past those injured had to prove a manufacturer negligent before they could successfully sue for damages. A customer is able to sue a supplier, without proof of negligence, under the sale of goods law (DTI, 2010:4).

The following business practices are banned outright in the UK

Falsely Claiming Accreditation: (i) faking credentials: claiming to be a signatory to a code of conduct when the trader is not. Your endorsement is not real: claiming that a code of conduct has an endorsement from a public or other body which it does not have; (ii) not being true to the terms of the endorsement: claiming that a trader or a product has been approved, endorsed or authorized by a public or private body when he/she/it has not, or making such a claim without complying with the terms of the approval, endorsement or an authorization (BERR, 2008:8).

False Pricing and Product or Service Information: (i) special offer-not in stock: making an invitation to purchase products at a specified price, while the product is not in stock. (ii) Limited time only: falsely stating that a product will only be available for a very limited time or that it will only be available on particular terms for a very limited time, in order to elicit an immediate decision and deprive consumers of sufficient opportunity or time to make an informed choice (WordPress, 2010).

False Promotional Activities: (i) faking goods: for example, promoting a product similar to a product made by a particular manufacturer in such a manner as deliberately to mislead the consumer into believing that the product is made by that same manufacturer when it is not. (ii) Advertising to children: including in an advertisement a direct exhortation to children to buy advertised products or persuade their parents or other adults to buy advertised products for them (BERR, 2008:10).

False Sales and After-Sales Service: (i) forcing the sale: creating the impression that the consumer cannot leave the premises until a contract is formed. (ii) Misleading after-sales information: creating the false impression that after-sales service in relation to a product is available in a European Member State other than the one in which the product is sold (BERR, 2008:10).

2.8.3 Australian Consumer Law

The Australian Competition and Consumer Commission (ACCC) is an independent Australian Government statutory authority; the ACCC promotes competition and fair trade in the market place to benefit consumers, business and the community. Its primary responsibility is to ensure that individuals and businesses comply with the Commonwealth competition, fair trading and consumer protection laws. The Australian Consumer Law provides basic rights for consumers to return goods they have bought, including if they do not match samples, are faulty, or do not perform as expected. In May 2008 the Ministerial Council on Consumer Affairs welcomed the publication of the Productivity Commission's Review of Australia's Consumer Policy Framework. And in 2nd October 2008 "agree"ments were made to introduce a National Consumer Law implements recommendation that would fully protect consumers in the market. On 26 December 2010, the Hon Michael O'Brien MP, Victoria's Minister for Consumer Affairs, launched My-Shop Rights, which provides instant advice and full protection on consumer's refund, warranty and lay-by rights (ACCC, 2010).

2.8.3.1 Australians' Fundamental Consumer Rights

According to the Consumer Advocacy Policy "CAP" (2010), all citizens of Australia have fundamental rights, which are underpinned by the principles of social justice. These fundamental rights are embedded in the values of Community Support Incorporated. Accordingly, Consumers are entitled to express their views and uphold their rights. It may be difficult for consumers to do this alone as they may not always have the confidence or skills required.

In short, there are 9 basic Australians' Fundamental Consumer Rights which are similar to South Africans' Fundamental Consumer Rights, and they function in the same way. These rights are: The right to privacy and confidentiality; the right to access personal information held by Community Support Incorporated; the right to be treated with respect and dignity; the right to recognition and respect of cultural, religious and linguistically diverse backgrounds; the right to receive a good quality service that meets the Consumer's specific needs and to be advised of the limits of the provided service;

the right to accurate information about available services to assist the Consumer make an informed decision about the most appropriate service for their needs; the right to provide direct and honest feedback about the service provided without fear of retribution; the right to the assistance of an interpreter if English is not the consumers' first language; and, the right to express opinions and to be supported by an advocate, who may be a friend or relative to speak out on the consumer's behalf to protect and promote their rights and interests (Consumer Advocacy Policy, 2010).

2.8.3.2 Tips or Guidelines that help consumers in Australia

These tips may also be useful to South African consumers and/or other Countries. The following tips are outlined: (i) you are not entitled to return an item when, the store told you (or displayed a sign) about hidden defects before you bought it; you examined the item before buying it; you used the item in an 'abnormal' way; or you have used the item for a very long time. (ii) It doesn't match the sample or demonstration model and it doesn't match the description: when you buy an item based on a sample or demonstration model, it must match that sample. If the item is so different from that of sample, you are entitled to a refund. In addition, the item must also match its description (for example, on the label or in a TV commercial). If an item is so different from the description that you would not have bought it, you are entitled to a refund (ACCC, 2010).

In conclusion, the analysis of consumer protection from foreign countries showed that CPA in South Africa and overseas functions in the same manner, and therefore, brings no difference. In other words, the way consumers are now protected in South Africa is no different from those of Japan, the United Kingdom and Australia. Finally, we shall look at the types of warranties available to all consumers.

2.9 Types of Warranties Available for Consumers

Warranties are granted as a results of a sale, where sale is defined as a contract whereby one party (the seller) undertakes to transfer/deliver a thing, or the possession thereof to the other party (the buyer) in return for payment of a price by the latter (Robert, 2007:232). Peter *et al*., (2007:153) added that a contract of sale must, of course, comply with those requirements that need to be satisfied for all contracts. The law of contract recognizes two basic kinds of warranties: a statutory implied warranty; and a manufacturer's voluntary warranty. To these may be added a third category, the so called 'extended warranty' which is a contract separate from the contract of sale for the product, providing for the repair or service of the product. Consumers can rely on these different warranties to protect themselves if goods are faulty. They are, in effect, promises by the supplier or manufacturer to stand behind the goods and services they supply and to correct any problems that may arise if goods have defects (AGFR, 2009:3; Robert, 2007:232; Peter *et al*., 2007:153).

2.9.1 Statutory implied warranties: this type of warranty is simple enough; the law states that every new product will work as expected for a reasonable amount of time. An implied warranty does not need to be written or verbalized at the time of purchase; it is a common sense expectation of performance. State law regarding implied warranties varies, for example, with digital cameras; the implied warranty is at least equal to the manufacturer's warranty time frame, although it can be longer. Regardless of whether a voluntary or extended warranty is available, the National Credit Act and the National Consumer Commission protect consumers when they buy goods and services. They do so by implying certain rights and obligations into all consumer contracts, and these can be categorized as: (i) conditions, which are essential terms of the contract, that is to say, terms that are so important to the purpose of the contract that, if they are breached, will allow a consumer to cancel the contract and seek a refund as well as seek compensation for loss or damage. (ii) warranties, which are less significant terms, that is to say, secondary considerations that are so important and, if they are breached, will generally allow consumers to seek damages, but will not allow consumers to terminate the contract, depending on the situation (AGFR, 2009:3; Schurman, 2012).

2.9.2 Manufacturer's Voluntary Warranties: Schurman (2012:1) defined manufacturer warranty as a written warranty included with every type of new product. For example, the company that manufactures digital cameras guarantees that the model will be free from defects for a certain period of time (say 1 year), from the date of purchase. If the camera has a problem during that period of time, the manufacturer will repair the camera for free. However, this type of warranty does not cover accidental damage that the purchaser may cause to the product.

Voluntary warranties: these warranties set out the terms and conditions in which the manufacturer “agree”s to repair or replace the product or refund the purchase price. Such warranties are usually in writing, but they are subject to time limits and other conditions. As their name suggests, manufacturers’ warranties are voluntary and their terms and conditions are not prescribed by law. However, if provided, a voluntary warranty may form a collateral contract between the consumer and the manufacturer and, if it does, the consumer has the right to take legal action against the manufacturer if the warranty is not honoured (AGFR, 2009:4; Schurman, 2012).

2.9.3 Extended warranties: extended warranty is an “agree”ment between the consumer and a company or a store that usually provides coverage beyond the manufacturer's warranty, for a fee. Extended warranties are typically designed to generate direct profits and are used as a means of retaining customers. Extended warranties are offered for a wide range of durable consumer goods, including automobiles, home appliances, and electronics. Durable consumer goods and extended warranties can be a highly profitable business to the extent that they offer suppliers margins ranging from 44 to 77 percent and can account for as much as 50 percent of independent suppliers. Failure to provide warranty performance may adversely impact the relationship between the customer and the supplier or retailer (Baird and Benady, 1996:32; Schurman, 2012; Noel, 2001; Berner, 2005:46; Danaher *et al*., 2008:43; Day and Fox, 1985:77-86).

2.10 Conclusions

The CPA is far-reaching and covers more than the areas discussed in this chapter. In striving to remove unethical or unfair conduct from the marketplace, the regulations also describe a number of business practices that are now outlawed or heavily regulated. In short, the CPA is like a “bill of rights” for the consumer. Designed to protect the poor and vulnerable, it not only gives South African consumers a far bigger stick to wield over unscrupulous retailers or suppliers, it also places a heavier burden on businesses that do not comply with best practice.

It is also advisable that consumers should take responsibility such as using products as they were meant to be used. Consumers should look for information about products they plan to buy and use it to compare and evaluate different brands and models. Consumers should also let their views be known. They should let the public know their opinions about consumer issues; they should seek remedies when products and services do not meet their expectations; and they should learn to take advantage of every opportunity to develop their consumer skills.

In conclusion, this chapter started by reviewing the asymmetric information that plays a major role in consumers’ buying behaviour, followed by the main aim of the Consumer Protection Act, the Fundamental Consumer Rights, Models of Consumer Behaviour, Framework for a Well-Functioning Market, the Impact of the CPA on businesses, Consumer Law in Foreign Countries, and availability of warranties.

CHAPTER 3

COMPLIANCE MEASURES AND RISKS

3.1 Introduction

The objective of this chapter is to propose effective compliance measures that would help retail companies while complying with the Consumer Protection Act. It is these Proposed Compliance Measures that will determine how retail companies were complying with the CPA. Proposed Compliance Measures (PCM) also forms part of data analysis (in chapter five) from which most of the research questions were formulated. In short, the chapter starts by introducing eight Proposed Compliance Measures, which include: the companies implemented consumer policies before the implementation of the CPA; consumer's education; employee's training; emergency funds; purchase of insurance policies; consumer or customer consultants; Quality assurances; refund, replacement and compensation. Later, the chapter discusses Six Steps of Risk-Based Compliance that would also help retail companies and other businesses in eradicating or reducing compliance risks. The Steps of a Risk-Based Compliance Approach are: identifying risks, analysing, prioritizing, selecting, planning for implementation and monitoring. This chapter ends by discussing approaches to compliance risks and its consequences if necessary measures are not implemented.

3.2 Proposed Compliance Measures

3.2.1 The Companies' implemented consumer policy before the CPA

In this first compliance measure, the researcher wanted to find out whether retail companies had their own consumer policies before the implementation of the CPA. In other words, the researcher wanted to establish that retailers who had their own consumer policies before the CPA were less exposed to compliance risks compared to those who did not. Such retailers are easier to understand, learn and cope with terms and conditions in the CPA. In addition, retailers who are now treating consumers fairly because of the implementation of the CPA which enforces every type of the business to comply may find more compliance difficulties than those who started a long time ago.

3.2.2 Consumers′ Education/Campaign

How do retailers make sure that all their target consumers are well educated about the law that protects them? Here, the researcher wanted to establish that retailers who educate consumers are far different from those who do not, particularly in being cautious when handling compliance issues with customers (in other words, consumer education would serve as compliance measure). The information shared by Mishra (2010:1) revealed that consumer education is a process of teaching, training and learning in order to improve knowledge and develop skills among consumers, and can also help to reduce compliance risks among businesses. The right to Consumer Education entails that every consumer has the right of keeping knowledge and skills regarding purchase, use and effects of products. Sandra Torres, the President of the Telecommunications Regulatory Board (TRB) said, “we’re educating consumers about their rights to prevent unfamiliarity when they face problems. Our interest is that consumers knows their rights and can demand them as many times as they feel necessary. Ignorance is the consumer’s worst enemy, and that is why we’re emphasizing on consumers education” (Michelle, 2011). The Organization for Economic Co-operation and Development (2009:1) also showed that the government is working together with consumer organizations, teachers and parents associations, and other civil society groups to promote consumer education to raise awareness.

The Importance of Consumer Education

Consumer education provides the public with the information it needs on products and services. It helps consumers understand their rights and to become active participants in the buying process. It ensures that companies are held accountable by governing agencies and the consumers who use their products and services. Education is also a significant factor in keeping the economy moving, as it holds companies liable for what they sell and how they sell it, and gives consumers control over their purchases. It motivates consumers to provide feedback that can be used to improve the quality of products and services offered (Brookins, 2012).

Consumer education forces companies to be honest about what they are offering, price their products and services fairly and pay close attention to the needs and wants of their customers. Companies determine how to educate their consumers by taking into account their industry, the product or service they sell and their target demographic. Consumers can receive education through television and radio commercials, print and Web advertising placements. Companies use social media sites to answer consumer questions, post product news and updates, and to solicit feedback on products and services. Websites with informational blogs, articles and videos also provide consumers with the education they need on companies and the products they offer. An informed consumer is able to dissect the information about the product or service to make a wise buying decision after making accurate product comparisons (Brookins, 2012).

3.2.3 Training of the Employees

Companies can be held liable for the unlawful conduct of their employees, even if they have policies in place which prohibit such conduct. Such liability can be minimized if the employees receive sufficient compliance training and counselling. Employees who are well trained in compliance risks are more cautious when dealing with consumers than those who are not. Compliance training is essential because it ensures that members of the organization do not break rules or procedures, which in return minimizes compliance risks (Ozyasar, 2012). Based on these facts, the researcher wanted to establish compliance training as one of the compliance measures employed by the retail companies. It is also suggested that, most of the retailers who train their employees are less exposed to compliance risks than those who do not.

Brookins (2012) also suggests that most of the companies are investing in employee training to ensure that the customer service is maintained at a high standard. Consumers have access to employees through social networks or through live chats hosted on company websites. Other benefits of training employees are listed below.

Organization's Liability: compliance training has numerous objectives, but the most important goal is to avoid legal liability. Federal sentencing guidelines state that criminal liability can attach to an organization if an employee commits an illegal act, even if such conduct was contrary to instructions. If an employee, for example, of your local gym opens your locker while you are in the shower and steals your cell phone, the gym can be held liable, even if the gym had clearly instructed its employees not to touch the personal belongings of patrons (Ozyasar, 2012).

Compliance Training: an organization can largely avoid potential fines if it can demonstrate that it had put in place an effective compliance programme. So instead of merely telling employees not to touch the personal belongings of clients, the law requires the company to actually train and counsel its members. The training could discuss such issues as what to do when an employee sees unattended personal belongings, how to handle lost-and-found items and how to act when one employee observes illegal conduct by a fellow worker (Ozyasar, 2012).

Industry Regulation: investment banks provide extensive compliance training to ensure that each member is aware of industry specific rules and regulations. Seasoned employees must also be updated when regulations change or the organization's status undergoes significant change (Ozyasar, 2012).

Good for Profits: compliance training also involves providing guidance on ethical and proper conduct, even where such conduct is not specifically mandated by law. Companies that teach their members how to act in a socially responsible manner and to respect each other consistently do better and last longer, which in turn leads to profit maximization of the business (Ozyasar, 2012).

In conclusion, Burgess (2012:1) indicates that an information and education programme should be utilized to assist employees in understanding the compliance programme and the Employee Standards and Code of Conduct. Training should be repeated frequently, at least annually or every 6 months, and the new employees should be scheduled for compliance programme training no more than 30 days after beginning employment. The consequences that will follow for any violation of laws should be taught during training.

3.2.4 Emergency funds/Budget

On the topic of emergency funds or budget, the researcher wanted to indicate that retailers who have emergency funds aside are less exposed to compliance risks than those who do not. In other words, emergence funds would serve as compliance measure against uncertainty event. Similar thoughts are also shared by Money Reasons (2011:1). They believe in the saying we should always plan for the worst and hope for the best, and when you relate this to your finances, it means having an emergency fund. An emergency fund is exactly what it says on the tin, i.e. a source of funds where you can go to seek help in the event of an emergency. If you do not have an emergency fund, then you may have to borrow money. Borrowing more money in this type of situation will only worsen your financial state. This is why having an emergency fund is so important.

Further, if you have a reserve of cash to cover an emergency, you would not have to borrow from next week's pay cheque, rather you would draw from your savings and you would not be left owing anything to anyone. The information shared by the Independent Money Guide (2012:4) also reveals that if you have some money of your own available for emergencies, you can take some of the insurance risk yourself. This will also allow you to reduce the cost of your insurance policy.

3.2.5 Purchase of Insurance Policy

Generally, insurance policies are purchased to cover large financial losses or damages caused by unforeseen events such as law suits, fire, theft, robbery, death, etc. Hence, the researcher wanted to indicate that insurance policies would serve as compliance measures against large claims. It would also make sense to suggest that retailers who purchase insurance policies are less exposed to compliance risks than those who do not. Business Insurance is purchased to protect the company against:

- Physical loss or damage;
- Loss of income consequent upon physical loss or damage (loss of profit); and
- Legal liability to third parties; this is done to ensure the continuing operation of the business (Uibgroup, 2011:3).

There are other benefits of an insurance policy. For example, it will compensate a company if it is legally liable for loss or damage to other people's property. Insurance will compensate a company if it is legally liable for injury or death to individuals. Insurance will compensate a business for the lost gross profit in the event of physical damage stopping a company from carrying out its activities for a certain period. Insurance will also pay for the physical repair or replacement of property, buildings and equipment. The type of insurance a company purchases will vary according to the particular risks it is exposed to and the amount of insurance a company purchases will depend on how much risk it is prepared to bear on its own account. The type and amount of insurance purchased will also vary depending on what premium each individual company is prepared to pay. Improved risk management practices can help in reducing a company's exposure to risk, which will ultimately result in reducing the premium charged by the insurers (Uibgroup, 2011:3).

3.2.6 Consumer consultant or customer care consultant

Bumpres (2012:1) posits that a consultant creates an image for the company or business by introducing techniques that keep customers satisfied. They may suggest ways to market or price an item, or may implement a policy for greeting customers and handling complaints. The main function of a customer consultant is to make sure that consumers are served to the highest standard of satisfaction. Therefore, the researcher wanted to show that retailers who use consultants are less vulnerable to compliance risks compared to those who do not. In other words, customer consultants can be used as a compliance measure, in the sense that all problems faced by customers can be dealt with immediately before further steps are taken.

In addition, a consultant is also responsible for introducing and implementing strategies that help the company to improve its customer service. Through market research and other methods, consultants provide expertise that their clients cannot produce for themselves, and help companies to solve customer related problems. A consultant also advises the company on marketing, financial, organizational and data processing methods, all in an effort to improve customer service (Bumpres, 2012:1-2).

3.2.7 Quality Control and Quality Assurances

Quality control and quality assurance seek to achieve the common goal of ensuring that products or services reach certain standards. The purpose of quality assurance is to ensure that goods offered are free from defects and hazards and must perform their intended function as stipulated on the product (Kietzman, 2012:1; David, 2010). The researcher wanted to indicate that quality assurance would serve as a compliance measure in retail companies. A further suggestion was that, retailers who do not use quality assurances are more vulnerable to compliance risks than those who do. In addition, quality assurance also ensures that Food Safety Standards are met. Safety Standards apply to a wide range of products and their main purpose is to protect consumers against injury, illness and death related to unsafe goods. Safety Standards are not restricted to unsafe design features, but may also apply to non-physical aspects of a product (David, 2010:1).

The two examples below, both from the United States of America, demonstrate the failure to adhere to the safety standards, principles and regulations.

(**i**). The 2010 BP Deep-Water Rig Explosion: after much corporate quality failure finger pointing, the oil rig explosion was and still is the greatest man-made environmental disaster in US history. The explosion aboard the deep-water horizon rig on 20th April, 2010 killed 11 workers and began a devastating spill which leaked over 4 million barrels of oil into the Gulf of Mexico, which is still to date the largest American spill in history. The quality management and contractors failed to properly test the cement around the well in order to save time and money. There was much finger pointing between the three corporations involved: BP was blamed for their flawed well design, Transocean was blamed as owners of the rig, and Halliburton was blamed as the contractor providing botched cement used to create the well. The U.S. Government, who blamed them all, was also blamed for lack of regulations. Each of these companies broke the central rule of quality standard, which is to understand their internal and external customer needs, and strive to exceed them (Ashley, 2012; Forrest, 2005).

(**ii**). The 1986 NASA Space Shuttle Explosion: on January 28, 1986, the NASA Space Shuttle exploded shortly after launch, destroying the vehicle and all crew members lost their lives. The destruction of the Shuttle was caused by the hardware failure of a solid rocket booster. NASA failed to adhere to the quality standards and principles, and they also broke the central quality rule of taking a fact-based approach to decision making, as result, 7 astronauts died on the same time (Ashley, 2012; Forrest, 2005).

3.2.8 Refund, Replacement, and Compensation to a Consumer

The researcher wanted to show that retailers who do not use refund, repair or replacement as stipulated in the CPA, would face more compliance risks than those who do. The main aim is to indicate that refund or replacement would particularly serve as compliance measure. This would also reduce the possibility of the business gaining a bad reputation. Section 61 of the CPA introduces drastic remedies for consumers who suffer death, injury or illness, or the financial loss of or physical damage to movable or immovable property as a result of their having been supplied with unsafe or defective goods, or if they are given inadequate warnings or instructions regarding hazards which may arise from using the goods supplied. A consumer may request or be entitled to: a refund; return purchased goods; have goods repaired; or have the goods replaced. The consumer may return goods to the company, and receive a full refund of any consideration paid for those goods. Goods must be returned within 10 business days at the consumer's risk and expense. The Company must return any payment received from the consumer within 15 business days after receiving such notice or receiving the returned goods (van der Merwe, 2011).

The information shared by Uknetguide (2012:1-2) reveals that refund, replacement or compensation could be used as a technique for satisfying consumers when they are dissatisfied with the product offered. The word 'refund' in consumer law means that when you buy goods, they have to be of a good quality; this means they should be free of any compromising faults, and they must also fulfill the purpose for which they are intended and be accurately described. If the item does not meet one or more of these criteria, consumers are well within their rights to claim a full refund. The consumer should make the retailer or supplier aware of a problem with an item as soon as possible, ideally within a few days or two weeks maximum. However, there are certain conditions under which these rights do not apply. If, for example, you bought the goods from a private individual, you are only legally allowed to claim a refund if they were inaccurately described when sold to you.

Replacements: the person or business giving the replacement must provide goods of the same type and similar value. If such a replacement is not reasonably available, you may choose a repair or a refund. The consumer guarantees that applied to the original goods will apply to the replacements.

Compensations: when goods fail to meet a consumer guarantee, the consumer may also be able to claim for compensation for his/her costs caused by the problem. This is usually for financial costs but can include other costs, such as lost time or productivity when you have paid for a good. As a consumer, you have the right to get the best quality possible (Bolingger, 2010; Department of Commerce, 2011).

General Approach to Compliance Risks

First, the word "compliance" means either a state of being in accordance with established guidelines, specifications, legislation, or the process of becoming so. Compliance may be the result of legal mandate, policy statement, code of practice, guidelines, and procedural manual or stated preferences. However, many organizations have found it difficult to comply, achieve and maintain compliance with the various regulatory compliance authorities that apply to them. Specifically, many businesses including retailers find that their regulatory compliance efforts are more complex, time-consuming and costly than originally anticipated, even if the organization made a sincere effort to control processes in the past. Difficulties also stem from attempting to achieve compliance with multiple regulations at a specific time, place, or given a complicated situation (Columbia University, 2012; Contego, 2012:2).

The word “non-compliance” means a situation where an individual or organization does not follow the regulatory requirements, rules, protocols, procedures, or laws. Compliance risk is the current and prospective risk to earnings or capital arising from violations of, or non-conformance to laws, rules, regulations, prescribed practices, internal policies, and procedures. This risk exposes the organization to the possibility fines, civil money penalties, and payment of damages. Compliance risk can lead to diminished reputation, reduced franchise value, limited business opportunities, and an inability to enforce contracts (Columbia University, 2012; Betterregulation, 2008).

The research conducted by the Office of Fair Trading (OFT) (2010:5) revealed that most of the businesses they interviewed adopted a risk-based approach to competition law compliance, focusing their activities on the areas of greatest risk in their businesses. In other words, businesses must view law compliance as helping them to beat other competitors through being able to position themselves as ethical businesses. A commitment to competition law compliance from the top of the organization down was revealed as a key driver of compliance in the organization as a whole. Bearing this in mind, the researcher saw fit to include Risk-Based Compliance, which is similar to the application of the retailers’ compliance with the CPA.

3.3.1 The Six Steps of Risk-Based Compliance

A risk-based compliance approach ensures that individuals or businesses which are not complying are identified, and those doing the right thing are not subject to unnecessary compliance fines. A risk-based compliance approach also enables resources to be targeted to the areas where they are most needed and will prove most effective. It involves a series of steps to identify and assess non-compliance risks and then apply appropriate compliance measures to control risks (Better regulation, 2008). The steps of risk-based compliance are as follows:

3.3.1.1 Identifying risks of non-compliance

The risks of non-compliance need to be identified and considered, and while identifying these risks, suppliers, retailers or other businesses should familiarize themselves with the following associated risk questions: what will happen? When and where? How and why? A failure to properly consider these risks can lead to the selection of inappropriate compliance measures and ineffective regulatory outcomes.

The following factors should be examined while identifying non-compliance risks:
The nature of the risk: what event or incident happens, when and where?
The source of the risk: what types of people or businesses will be involved?
The effect of the risk: what is the impact upon the regulatory outcome, and who will be adversely affected? Businesses should seek to identify the key areas of the business in which risks might arise. For example, sales and marketing departments that deal with consumers directly; staff who attend trade association meetings or have contact with competitors and new staff joining the organization. Businesses should also identify specific risks when engaging in mergers and acquisitions activity or entering a new geographic market (OFT, 2010:10; Better regulation, 2008).

3.3.1.2 Analysing risks of non-compliance

The identified risk of non-compliance has to be assessed as high, medium or low. These risks should be analysed so that the level of the risk can be understood. The level of non-compliance risk is determined by consideration of the negative consequences of the likelihood. For example, risks arising from the arrival of new staff can be assessed as high if the new member of staff is joining from a competitor, is joining the sales and marketing department or will be undertaking a role requiring contact with competitors. Conversely the risk might be assessed as low if the new member of staff will have a back-room function with no contact with competitors or customers (OFT, 2010:10; Betterregulation, 2008).

3.3.1.3 Prioritizing risks of non-compliance

Businesses should set priorities for addressing the risks. Each non-compliance risk should be prioritized to ensure that compliance activities are focused on areas where they are most needed. The priority of the non-compliance risk should therefore reflect relevant Government policies, such as the Bills of Consumer Rights, National Credit Act, Companies Act and Consumer Protection Act (Betterregulation, 2008).

3.3.1.4 Identifying and selecting compliance measures

Compliance measures that can address the priority compliance risks should be identified and the most suitable compliance measures selected should be based on the costs and benefits to the business. Retailers should be able to examine the options and choose the most suitable actions and measures that have the greatest potential to address the priority of non-compliance risks. This ensures that compliance measures address non-compliance risks in the most effective manner. In addition, businesses should also use appropriate risk-mitigation strategies. These would generally include appropriate policies and procedures, and appropriate training activities. For example, if the business has identified a frequent high risk, arising from the new staff joining the organization, the business should establish procedures to train the new staff regarding compliance (OFT, 2010:10; Betterregulation, 2008).

3.3.1.5 Planning for implementation

Businesses should plan when and how the compliance measures will be carried out. Once compliance measures have been chosen, it is necessary to identify when particular compliance measures should be used. This will ensure that compliance measures are appropriate to circumstances and that inconsistent compliance measures are not used. When considering alternative compliance measures there are a number of issues to be considered. For example, is non-compliance likely to be the result of inadvertent or deliberate actions? Here, businesses should be able to assess the behaviours of employees and customers, which can be subject to the compliance risks. If it is identified that breaches are likely to be the result of a lack of information, educative measures should be used, and strict enforcement measures should also be used to deter those who are resistant (Betterregulation, 2008).

3.3.1.6 Report and review

The final step is to report and review all the five steps mentioned above. It is important that businesses regularly review all stages of the process to ensure that there is unambiguous commitment to compliance from the top down, that the risks identified or the assessment of them have not changed and that the risk mitigation activities are appropriate and effective. Businesses should know that reporting and reviewing is one of the key factors that measures how far things have been implemented, and how near they are to completing the remaining tasks. Applying these concepts to retail businesses would be very helpful as they reduce the probability of non-compliance risks (OFT, 2010:10; Betterregulation, 2008).

3.4 Non-Compliance Consequences

Many businesses are compelled to address regulatory compliance requirements to avoid the legal consequences and risks of non-compliance. Consequences of non-compliance often include references to financial, civil, and criminal penalties, but consider first the effect on the organization's reputation to its customers and shareholders and its ability to access the resources it needs to succeed. The consequences of non-compliance vary from one regulation to another, but they can include: the loss of reputation, customers and business partner trust; the loss of market share if competitors comply and your organization does not; the loss of focus on business goals and objectives; significant fines (both personal and organizational); the loss of personal legal liability and even incarceration for extreme offences; litigation from shareholders and other parties; limited access to capital markets and loss of listings in the stock market; limited ability to do business in specific jurisdictions; and increased regulatory oversight (Contego, 2012:3). The threat of these potential consequences may provide significant motivation to retail businesses and their executives to manage compliance effectively and proactively.

3.5 Business Challenges

As retail companies comply with the Consumer Protection Act what are the likely challenges they face? Contego (2012:2) suggests that compliance procedures present a number of challenges, which may include: managing a complex set of retail Governance Risk Compliance authority documents; addressing the difficulty of achieving, demonstrating and maintaining compliance; and understanding the consequences of non-compliance issues.

3.6 Business Opportunities

The researcher also wanted to find out about opportunities associated with the compliance of the Consumer Protection Act? Contego (2012:5) posits that Compliance does not only present challenges to overcome, it also offers opportunities for improvement within an organization. Such business opportunities include the chance to improve processes, and create competitive advantage.

3.7 Conclusion

Eight Proposed Compliance Measures were discussed at the beginning of the chapter followed by six major steps that could be used to control or reduce compliance risks faced by retail companies and other businesses. In short, the chapter provides awareness to businesses as to how to reduce compliance risks, and also, to take necessary measures to protect their businesses from financial risks and the damage to their reputation.

CHAPTER 4

RESEARCH METHODOLOGY

4.1 Introduction

This chapter illustrates a step-by-step presentation in which the research was carried out. The chapter starts by clearly defining and explaining research, and in order to emphasize the message of understanding the term ‘research’, methodology and methods were essential requirements to this study. Then the chapter proceeds to examine the key concepts of this research, such as research design (qualitative and quantitative), data collection methods, survey methods, data collection instruments, target population, sample frame, sampling methods, and research ethics. Finally, the summary, challenges and limitations end this chapter.

According to Paivi and Anne (2008:307) method is a theoretically informed way, or technique for collecting and analysing empirical data. Research methodology is defined as a set of theories of how research proceeds. Methodology includes the methods, procedures, and techniques that are used to collect and analyse empirical data. Leedy and Ormrod (2005:12) also “agree” that research methodology is the general approach a researcher follows when carrying out a research project. Similar explanation is also rendered by Luiz and Graeme (2011:1-2); Orwa (2011:2) that research methodology refers to the analysis of principles of methods, rules and techniques. It involves the systematic study of methods which are applied to analyse a specific project or study.

In defining the word “research” Kumar and Ranjit (2005:67-68) posit that research is composed of two syllables, re and search: “re” is a prefix meaning again, anew or over again; and “search” is a verb meaning to examine closely and carefully, to test and try, or to probe. Together they form a noun describing a careful, systematic, patient study and investigation in some field of knowledge, undertaken to establish facts or principles. Research is a structured enquiry that utilizes acceptable scientific methodology to solve problems and create new knowledge that is generally applicable.

Fraenkel and Wallen (2000:9) also “agree” that ‘research’ refers to any careful, systematic, patient study and/or investigation in to some field of knowledge that is undertaken to discover or establish facts and principles. Kumar (2010:2) defined research as the art of scientific investigation; it is a voyage of discovery to search for a new knowledge or a systematized effort to gain new knowledge. The term research also consists of defining and redefining problems, formulating hypotheses or suggested solutions; collecting, organizing and evaluating data; making deductions and reaching conclusions and then carefully testing the conclusions to determine whether they fit the formulating hypothesis. It is the manipulation of things, concepts or symbols for the purpose of generalizing to extend, correct or verify knowledge, whether that knowledge aids in construction of theory or in the practice of an art.

Generally, the main purpose of doing research is to discover answers to questions through the application of scientific procedures. It is the process of finding out about the hidden truth that has not been discovered as yet. Research provides the basis for nearly all government policies in our economic system. For instance, government’s budgets rest in part on an analysis of the needs and desires of the people and on the availability of revenues to meet these needs. Thus, research is considered necessary to the allocation of State resources (Kumar, 2010:2).

Sekaran and Bougie (2010:103) assert that studies may be either exploratory in nature or descriptive, or may be conducted to test a hypothesis. An exploratory study is undertaken when not much is known about the situation at hand, or no information is available on how similar problems or research issues have been solved in the past. Descriptive study is undertaken in order to ascertain and be able to describe the characteristics of the variables of interest in a situation. Hypothesis studies are undertaken to explain the nature of certain relationships, or establish the differences among groups, or the independence of two or more factors in a situation. In this study, the researcher used an exploratory study because not much was known about the compliance measures taken by the retail companies and/or very few studies had been conducted in this field of study (Sekaran and Bougie, 2010:103-8,119).

4.2 Characteristics of a Good Research

Research is a process of collecting, analysing and interpreting information to answer questions, but to qualify as research, the process must have certain characteristics; it must, as far as possible, be controlled, rigorous, systematic, valid and verifiable, empirical and critical. Controlled: The concept of control implies that, in exploring causality in relation to two variables, the researcher must set up the study in a way that minimizes the effects of other factors affecting the relationship. However, in the social sciences it is extremely difficult as research is carried out on issues related to human beings living in society, where such controls are not possible.

Rigorous means that the researcher must be scrupulous in ensuring that the procedures followed to find answers to questions are relevant, appropriate and justified. Systematic implies that the procedure adopted to undertake an investigation follow a certain logical sequence. Valid and verifiable implies that whatever you conclude on the basis of your findings is correct and can be verified by you and others. Empirical means that any conclusions drawn are based upon hard evidence gathered from information collected from real life experiences or observations. Critical means the research process adopted and the procedures used must be able to withstand critical scrutiny (Kumar and Ranjit, 2005:69). This study considered all the characteristics stated above except the first one, which is control.

4.3 Research Design

According to Jonathan (2010:102) and Mouton (2001:55) research design is a detailed framework, a plan or a blueprint that helps to guide the researcher through the research process. Based on their explanation, research design focuses on the end product, formulates a research problem as a point of departure, and focuses on the logic of research. Similarly, Huysamen (1993:10) also defined research design as “the plan or blueprint according to which data are collected to investigate the research hypothesis or question in the most economical manner”. By contrast, Bless and Higson (1995:63) posit that research design is a specification of the most adequate operations to be performed in order to test specific hypothesis under given conditions. In this study, the methods of designing were divided into scientific paradigms, namely, qualitative and quantitative research. According to Best and Kahn (2006:247) quantitative research makes use of experimental methods and quantitative measures to test hypothetical generalizations; and researchers seek causal determination, prediction, and the generalization of findings. In contrast, qualitative researchers seek illumination, understanding, and extrapolation to similar situations. In short, this study used both approaches, that is to say, quantitative and qualitative, in which stratified random sampling and purposive sampling were employed for data collection.

4.3.1 Qualitative Research

According to Creswell (2009:232) qualitative research is a means for exploring and understanding the meaning individuals or groups ascribe to a social or human problem. The process of research involves emerging questions and procedures; collecting data in the participant's setting; analysing the data and making interpretations of the meaning of the data. A similar thought is also shared by Bart, Christopher and David (2010:526) that qualitative research is typically more focused on sense-making in a purer sense. It is also often suggested that qualitative research tends to focus more on rich description of a phenomenon than on its quantification. Thus instead of relying on numbers, counts, and frequency-type data, qualitative research will often involve the collection and analysis of detailed observations, stories, or narrative histories, sounds, pictures, or videos (Bart *et al*., 2010:526).

Aaker, Day and Kumar (2007:192) assert that qualitative research can be used to examine attitudes, feelings, and motivations. It is typically characterized by small samples, which is a focal point for criticism of all qualitative techniques. Taking suggestions by Creswell (2009:175) in (Bogdan & Biklen, 1992; Eisner, 1991; Hath, 2002; LeCompte & Schensul, 1999; Marshall & Rossman, 2006) qualitative research can be well understood, and differentiated by the following common characteristics. Natural science: qualitative researchers tend to collect data in the field at the site where participants experience the issue or problem under study. They do not bring individuals into a lab, nor do they typically send out instruments for individuals to complete. Participants' meanings: in the entire qualitative research process, the researcher keeps a focus on learning the meaning that the participants hold about the problem or issue, not the meaning that the researchers bring to the research or writers express in the literature. Interpretive: qualitative research is a form of interpretive inquiry in which researchers make an interpretation of what they see, hear, and understand. Therefore, this research method requires a smaller, more focused sample size (Malcolm, 2011:59-60; Creswell, 2009:176). However, due to this small sample size, qualitative research only produces data on the sampled individuals, and so more general conclusions can only be propositions or extrapolations of the original data. This is where quantitative research comes in, hence the use of the both.

4.3.2 Quantitative Research

According to Hunter and Leahey (2008:290) quantitative research is a method that relies less on interviews, observations, and small numbers of questionnaires, focus groups, subjective reports and case studies but is much more focused on the collection and analysis of numerical data and statistics. It is a form of research that aims to determine the relationship between one thing (an independent variable) and another (a dependent variable) in a population. Sheila (2009:11) defined quantitative research as the method that measures the proportion of a population who thinks or behaves in a particular way. This is achieved by counting the number of people who buy certain brands or “agree” with certain statements, and producing statistics to show the proportions of the population that fall into specific categories, such as users of brand X and of brand Y.

Characteristics of quantitative research are: it generally involves large numbers of people, including specific sub-groups, grouped for example by age, social class, marital status or brand usage. It captures the aggregate of individual responses; each respondent is taken through a questionnaire without reference to other research participants and their individual responses are collated for interpretation and analysis. The questions are more likely to tap rational, more surface beliefs, attitudes and behaviours, partly because of the nature of the question-and-answer format and partly because the interviewer is not necessarily trained in depth. The survey can be repeated in the future using the same questions (Sheila, 2009:12).

4.4 Data Collection Methods

Researchers can use various quantitative research methods that are all generally accepted in social sciences today, namely: surveys, laboratory experiments, formal and numerical methods (Myers, 1997:1). Out of these, the study used the survey method only, which was inexpensive and easy to reach the population. It also made it easier to measure descriptive aspects of the study, such as the composition of the population of the Five Retail Companies (Game Stores, Pick n Pay, Edgars, First National Bank and the Empangeni Quality Cars).

4.4.1 Survey Method

Luiz and Graeme (2011:318) reveal that survey methods were first developed by English social reformers who sought to document the extent of poverty that had grown as a result of the rapid industrialization of the eighteenth and nineteenth centuries. Survey research received a new impetus during the Great Depression of the 1930s and the Second World War due to the need for better knowledge about poverty, unemployment and consumption patterns. William and Andrew (2009:49) observed clearly that survey involves using questionnaires of one form or another which may be self-administered or delivered by face-to-face interviews.

William and Andrew (2009:49-50) suggest that the main purpose of the survey is to generalize from a sample to a population so that interferences can be made about some characteristic, attitude, or behaviour of this population. Best and Kahn (2006:271) indicate the survey method as a research instrument that can be employed for both quantitative and qualitative research methodologies. The survey method involves asking subjects to answer questions, usually via interviews or questionnaires. Generally, surveys are employed to gather information on the background, behaviours, beliefs or attitudes of a number of people or target population (Luiz and Graeme, 2011:319; Kumar, 2010:10; Best & Kahn, 2006:272).

The researcher was more or less convinced by the survey method because of the following advantages: most surveys are fairly easy to implement because there is no need for sophisticated advices to record actions and reactions, as with observations or experiments; and in the survey method, the data can be analysed according to gender, income, occupation, or any other variable included in the survey (Joseph *et al*., 2006:222). In this study, the data collected from Managers and Supervisors was analysed according to their position level in the organisation, and questionnaires were self-administered face-to-face, hence the use of survey methods. Researchers who choose survey methods use three main types of survey instruments to collect data from the participants.

Survey Instruments: under the survey method, there are only three main data collection instruments that are used either in quantitative or qualitative research to collect data from the participants. These are interviews, questionnaires and observations (Sekaran and Bougie, 2010:185). According to Paul, Donald and Gerald (2008:44) data collection uses the process of either communication or observation. Communication involves asking questions and receiving responses, which can be through interviews or questionnaires. This process can be done in person, by mail, by telephone, or through electronic media such as e-mail or video teleconferencing. In short, both interviews and questionnaires were employed for this study.

4.4.1.1 Interviews

According to Sheila's (2009:73) definition, interview is a data collection method gained by verbally asking and probing about people beliefs motivations, through face-to-face interviews, telephone interviews, computer-assisted interviews, and through the electronic media. Hlatywayo (2006:38) also rendered a similar definition that an interview is a purposeful interaction between two or more people who are caught in conversation and negotiation for specific purposes associated with some "agree"d subject matter. In the process of interviewing, the researcher feels in control, in the sense of having the research participants in front of him/her, at the end of the phone or, visually, online. He or she can set the agenda, ask questions, observe and/or listen to or read responses.

Based on the views of Nick and Ian (2008:217) and De Vos *et al*., (2005:286) interviewing is the best method for collecting data from respondents if the researcher undertakes qualitative research. Interviewing is useful because it is very flexible, both in terms of content and time, and can be tailored to suit your research questions, respondents, and your own lifestyle much more effectively than many other qualitative methods. The process of interviewing participants is done in different ways. Welman *et al*., (2005:165) reiterate that there are three main types of interviewing participants, namely: structured, semi-structured and telephonic interviews. This study employed structured interview in which predetermined questions were arranged in the form of questionnaires.

Structured interviews: in structured interviews, the interviewer puts a collection of questions from previously compiled questionnaires, known as an interview schedule, to a respondent face-to-face and records the latter's responses. The interviewer is restricted to the questions, their wording, and their order, as they appear on the schedule with relatively little freedom to deviate from it (Welman *et al*., 2005:165). In this study, the researcher had a list of predetermined questions to ask the respondents face-to-face. In short, participants were interviewed based on two questions only which required them to list a number of challenges and opportunities associated with the compliance of the CPA. However, there has been a ground swell of criticism about the interviewing method, or in other words, other people feel that interview is not a good method of collecting data in qualitative research.

Sheila (2009:82) holds the view that within businesses, current psychology and other disciplines have led to concerns in two main areas. The first is the issue that what people say they do, think or feel may not be true. Second, there is the supposed artificiality of the interview situation, which may skew responses. People do not always say what they mean and mean what they say. This means that when people are being interviewed, they may not necessarily tell the truth or the whole truth. There are a number of possible reasons for this: people may be lying; they may not want to admit to embarrassing, antisocial or illegal behaviour; more likely they may not remember because it was an insignificant event or story, or it was a long time ago, or they muddle it with other occasions. However, the argument is not quite as black and white as it appears; the assumption behind most of these criticisms is that we are asking research participants to remember past behaviour, to simply lift a memory from their brain and bring it into the present as a complete unit. This is impossible; our brains do not work like that.

4.4.1.2 A Questionnaire

Merriam (2008:1) defined the questionnaire as a series of questions asked to individuals to obtain statistically useful information about a given topic. Mellenbergh (2008:211) also “agree”s that a “questionnaire” is a research instrument consisting of a series of questions and other prompts for the purpose of gathering information from respondents. Without doubt, questionnaires will allow the researcher to gather information that cannot be found elsewhere from, say, secondary information such as Books, Newspapers, Journals or Internet resources because the information obtained is fresh and unique.

Joseph *et al*., (2006:434) added that data collected through a questionnaire can be viewed as the key to unlocking understanding and truth about a problem situation. A survey instrument is developed as a critical component of the process of creating information that can be used to solve business problems, and questionnaires are probably the most generally used instruments of all. However, BizHelp (2009:1) allege that inappropriate questions, incorrect ordering of questions, incorrect scaling, or bad questionnaire format can make the survey valueless, as it may not accurately reflect the views and opinions of the participants. There are four major types of questionnaires, namely; mailed, telephone, electronic and self-administered questionnaires. However, the study used self-administered questionnaire only.

Self-Administered Questionnaire: self-administered questionnaires were handed in personally to the participants, who completed it on their own. The researcher introduced the topic and explained clearly about the background and the main aim of conducting the study. Personal distribution was also aimed at spot clarification of all the doubts, misunderstanding and problems faced during filling-in period. Questionnaires were then distributed among Managers and Supervisors in their respective Offices and were collected at the point of departure.

Principles used to Design Questionnaires

The layout of scale measurements used to collect primary data in the questionnaire was designed in a Likert Scale. Sekaran & Bougie (2010:152) state that a Likert Scale is designed to examine how strongly subjects “agree” or “disagree” with statements on a five-point scale. The questions for this study were also designed to elicit the extent to which participants “agree”d or “disagree”d with statements on a five-point scale measurement, hence the use of Likert Scale. Joseph *et al*., (2006:429) added that the researcher must be creative in designing questionnaires; the process should be a scientific one that integrates established rules of logic, objectivity and systematic procedures. Everyone understands that words go into questions and that questions go into questionnaires, but not everyone understands that writing questions does not give you a questionnaire. Below are the types and forms of questions used for this study.

Type and Form of Questions Employed

The type of question refers to whether the question is open-ended or a closed question. The form of the question refers to whether it is positively or negatively worded (Sekaran and Bougie, 2010:200). De Vos *et al*., (2005:174) identify more than eight types of questions. However, the researcher dwelled on what we call “open-ended and closed-ended questions”. Open-ended questions often start with ‘what’, ‘why’, ‘where’, or ‘who’ and provide space for the participant to answer in his or her own words and to decide how to develop the conversation. This type of question is good when exploring broad topic areas, because it helps the researcher to highlight key areas that are important to participants and that can be explored in more detail (Sheila, 2009:113). Neuman (2003:279) suggest that, open questions may be best if the researcher want to learn how the respondent thinks, or to discover what is really important to him/her, or to get more answers to the question. Hence open-ended question was used in order to get deeper and richer answers as to how do Retail Companies comply with the CPA.

In contrast, closed-ended question asks the respondent to make choices from a set of alternatives given by the researcher. With closed-ended questions, respondents choose their answers from a predetermined number of responses; or restrict the answers to a small set of responses. They also help the researcher to code the information easily for subsequent analysis (Churchill *et al*., 2010:296; 2010:94), hence the use of closed-ended questions in this study.

4.5 Target Population

It is incumbent on the researcher to clearly define the target population. According to Welman *et al*., (2005:126) the target population is the population to which the researcher ideally would like to generalize his or her results. A population is a group of individuals, persons, objects, or items from which samples are taken for measurement, for example a population of presidents or professors, books or students (Mugo, 2008:1). A population is also defined as the group of people to whom the results of a study are intended to apply (Fraenkel and Wallen, 2000:104). The target population of the study comprised 28 Managers and Supervisors who were working for Retail Companies in the North Coast of Kwazulu Natal. The Kwazulu Natal Province is on the east coast of South Africa, and has three neighbouring Provinces: Eastern Cape, Mpumalanga and Free State. The North Coast of Kwazulu Natal includes Richards Bay, Empangeni, Mtubatuba, Mkuze, Hluhluwe and Pongola. This study only took place at Richards Bay and Empangeni.

4.6 Choosing the Sampling Frame

Jonathan (2010:191) asserts that a sampling frame is a list of the actual cases from which your sample will be drawn, and it must be representative of the population. Jan and Colin (2009:196) also “agree” that a sample frame is a list of all the sample units available for selection at a stage of the sampling process. In conclusion, Joseph *et al*., (2007:173) posit that a sample frame is a comprehensive list of the elements from which the sample is drawn. To reach the sampling frame for this study, one manager and one supervisor were selected from each company. The sampling framework is presented below.

Table 4.1: Sampling Framework

AREAS	NAME OF COMPANY	NUMBER OF SHOPS	TARGET POPULATION	
			SUPERVISORS	MANAGERS
RICHARDS BAY	GAME STORES	1	1	4
	PICK N PAY	1	1	3
	EDGARS	1	1	1
	FNB	1	1	1
	QUALITY CARS Co.	1	1	1
EMPANGENI	GAME STORES	1	1	3
	PICK N PAY	1	1	2
	EDGARS	1	1	1
	FNB	1	1	1
	QUALITY CARS Co.	1	1	1
		TOTAL	= 10	= 18
		n=28		

In short, there were 10 Retail Companies, five from Empangeni and five from Richards Bay. As the researcher selected one supervisor and one manager from each company, 20 subjects (as a sample) were chosen to represent the whole population of 28 Managers and Supervisors from both areas.

4.7 Selecting the Sampling Methods

First, a sample means a finite part of a statistical population whose properties are studied to gain information about the whole. When dealing with people, it can be defined as a set of respondents selected from a larger population for the purpose of a survey. For example, when 200 members are drawn from the population of 1000 blue-collar workers, these 200 members form the sample for the study. That is, from a study of these 200 members, the researcher will draw conclusions about the entire population of 1000 blue-collar workers (Sekaran & Bougie 2010:263). Second, the word sampling means the act, process, or technique of selecting a suitable sample, or a representative part of a population for the purpose of determining parameters or characteristics of the whole population (Mugo, 2008:1). Sampling is also a process of selecting units from a population of interest so that by studying the sample you may fairly generalize your results back to the population from which they were chosen (William, 2001:41; 2006:1).

Sampling methods are classified as either probability or non-probability techniques. The sampling method for this study was akin to both probability and non-probability techniques. A probability sampling technique is any method of sampling that utilizes some form of random selection. Random selection is a selection made so that each person or item has an equal chance of being chosen. Historically, probability started from the study of games of chance such as tossing a die, playing poker and spinning a roulette wheel. Games of chance were not studied by mathematicians but probability theory as a branch of mathematics arose in the 17th Century when French gamblers asked Blaise Pascal, a well-known pioneer in mathematics, for help in their gambling. Late in the 19thCentury, careful measurements in astronomy and surveying led to further advances in probability. And from 20th Century until today, probability is variously used to predict the rate of return on risky investments, estimate the spread of rumours, control the flow of traffic through a highway system, and find the genetic makeup of populations or individuals, and many more (Angelfire, 2011:1). Types of probability and non-probability sampling techniques and their application with reference to this study are introduced in the following page.

There are six main types of probability sampling techniques namely: simple random, systematic, stratified, cluster, double and area sampling. Non-probability sampling includes convenience, judgmental, quota, snowball, and purposive sampling (Angelfire, 2011:1; Sekaran & Bougie, 2010:277). Under probability, only stratified random sampling was employed, and under non-probability, only purposive was used.

Stratified random sampling is obtained by taking samples from each stratum or sub-group of a population. It involves dividing the population into homogeneous sub-groups and then taking a simple random sample in each sub-group. Sub-groups are natural set of items, which are based on gender, occupational level, or company size (Jonathan, 2010:195-6). Stratified random sampling was chosen mainly because of the following reasons: first, it ensured that the research was able to represent not only the overall population, but also a key sub-group of the population, particularly small minority group of Supervisors. Second, the population was stratified into two strata, Managers and Supervisors, followed by random selection of respondents from each stratum. Its purpose was to ensure that every stratum was adequately represented.

When the desired population for a study is rare or very difficult to locate and recruit purposive sampling may be the only option. For example, if you are interested in finding out the total number of women who have an abortion per year; doctors may be the only specific people who can provide reliable or valid information. The best example of purposive sampling is judgemental sampling because it aims and targets the same procedures in data gathering (Wodsworth, 2005:1). Hence, purposive was the choice of the study because Managers and Supervisors were chosen to provide specific information about how retail companies comply with the CPA and what measures have been put in place. That is to say, the sampling was confined to specific types of people who could provide the desired information for this study.

4.8 Ethical considerations/Research Ethics

In the past, the issue of research ethics has been treated as a kind of 'disaster version', that is, avoiding unethical behaviour or study will be seen as below par or unacceptable. Although many people feel that engaging in ethical research practice is clearly important for businesses, it also forms important part of my own work as a student researcher. Ethical considerations relate to this research process in the sense that, ethics are concerned with moral values, principles and actions, such as honesty, integrity, transparency, obligation to others, responsibility and trust (Brotherton, 2008:55). To come up with complete knowledge of how research ethics should be applied in any research project, particularly for this study, the writings of the following authors have been taken into consideration (Jackson, 1987; Michael, 2009:46; ESRC, 2005:3; Harvey and Kate, 2005:280-2; Jonathan, 2010:85).

First, it is worth noting that failure to address ethical issues can potentially lead to quite serious consequences. The golden rule of ethics states that you should do unto others as you would have them do unto you. Applied to this research it simply means that it is a good idea for the researcher to know and apply good ethics to protect others.

Informed Consent: the researcher ensured that all the participants were fully informed about the purpose, methods, their role in the study, and what risks if any, were involved. The researcher also established a clear and fair "agree"ment for clarification of their obligations and responsibilities.

The right to withdraw: the fact that other people may not participate in the research, or may want to stop participating during the study was addressed immediately during the commencement of the study.

Participant confidentiality: the confidentiality of the information supplied by research participants and anonymity of respondents was kept confidential during and after the findings. In short, all the information supplied and the names of the participants were not made available to anyone else other than Research Committee. The permission to conduct research was granted from retail companies and the Unizulu Research Ethics Committee. The project was designed, reviewed and undertaken for integrity and quality

4.9 Conclusion

This chapter has introduced the concept of research. It has drawn attention to the key concepts used in this study, such as exploratory, descriptive, and hypothesis studies; research design, research methodologies, data collection methods, survey methods, survey instruments, target population, sample frame, sampling techniques and research ethics. This chapter was aimed at showing the entire process of how the research project was carried out. The procedures, rules, ethics, methods and the people involved were all part of the process outlined.

CHAPTER 5

DATA ANALYSIS AND INTERPRETATION OF FINDINGS

5.1 Introduction

The goal for this chapter is to analyse data based on the responses from Managers and Supervisors of the Retail Companies as to what compliance measures they take to comply with the CPA, or to determine whether retail companies have compliance measures in place or not. The results are based on twelve questions of which eight (Proposed Compliance Measures) are discussed earlier in chapter three. These questions seek to establish the aims, objectives and thereafter, interpretation of the findings. The findings will be presented in the form of frequency tables and bar charts. Out of thirteen questions asked to the participants, only twelve will be used to analyse and establish the study aims and objectives. Hence, the researcher is required to analyse the findings using question-by-question analysis, as presented below.

5.2 Analysis of results

To reiterate, questions which are based on compliance measures are fully discussed in chapter 3. In brief, there were 20 participants selected from five retail companies using probability stratified random and non-probability purposive sampling. Each manager and supervisor was selected from each company at the two places (Richards-Bay and Empangeni). Therefore, a detailed breakdown of the responses was obtained from 20 participants, who also gave a sample size of the study. A brief discussion based on each result will be interpreted according to the aim of the question as assumed by the researcher. Below is the analysis of each question based on the findings from the participants.

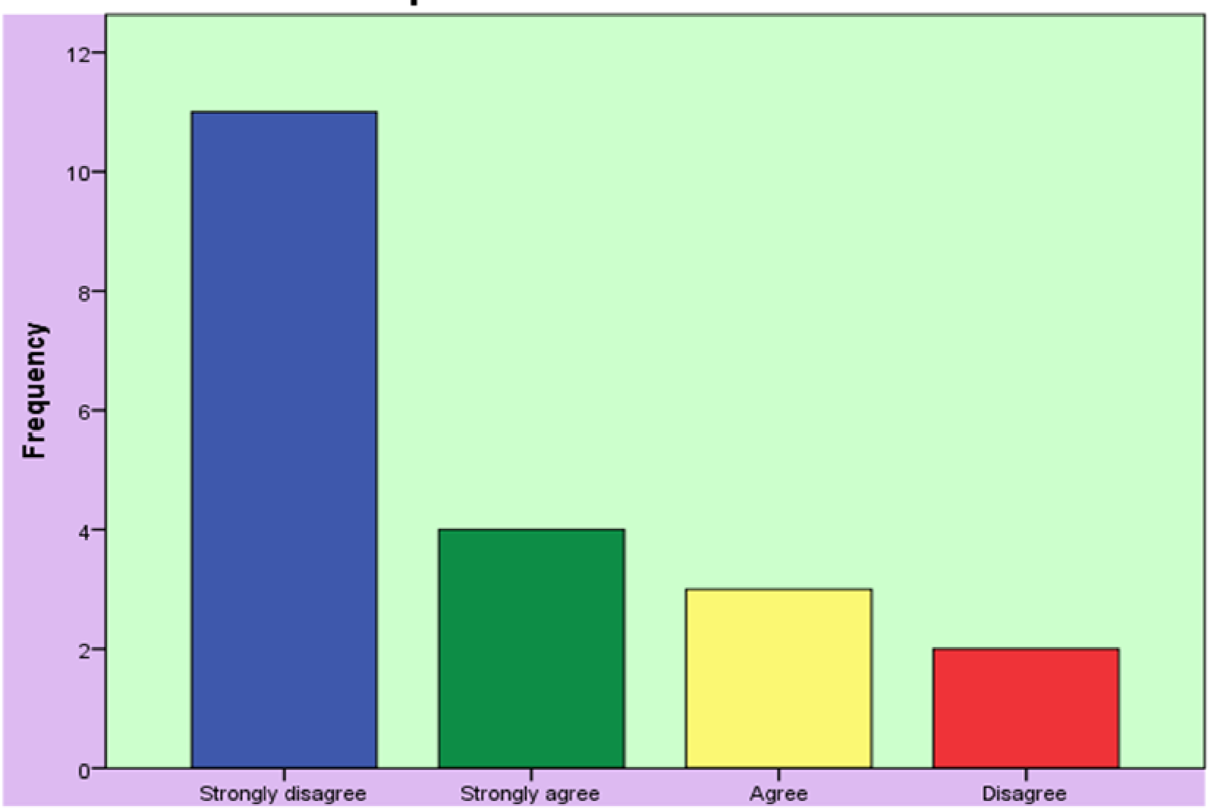
5.2.1 The Company did not have its own consumer policy before the implementation of the CPA

The first question was assumed to indicate that retailers who had their own consumer policies before the CPA were less exposed to compliance risks compared to those who did not. Therefore, this would serve as compliance measures within an organization.

Table 5.1: The Company did not have its own consumer policy before the implementation of the CPA

		Frequency	Percent
	Strongly disagree	11	55
	Strongly agree	4	20
	Agree	3	15
	Disagree	2	10
	Total	**20**	**100**

Figure 5.1: the Company did not have its own CP before the implementation of the CPA



The results for this question are presented in table 5.1 and figure 5.1 above. The majority of the participants responded “strongly disagree” (11; 55%) and “disagree” (2; 10%). This simply means that most of the Retail Companies had consumer policies (CP) which served as a compliance measure before the implementation of the CPA. However, these results are contrasted by the minority of the participants who responded “strongly agree” (4; 20%) and “agree” (3; 15%). This would mean that few retailers did not have their own consumer policies before the implementation of the CPA. It could also mean that consumer policies were there, but not in the interest of or of benefit to the consumer. In other words, companies had their own policies in place but for the benefit and interest of the business only.

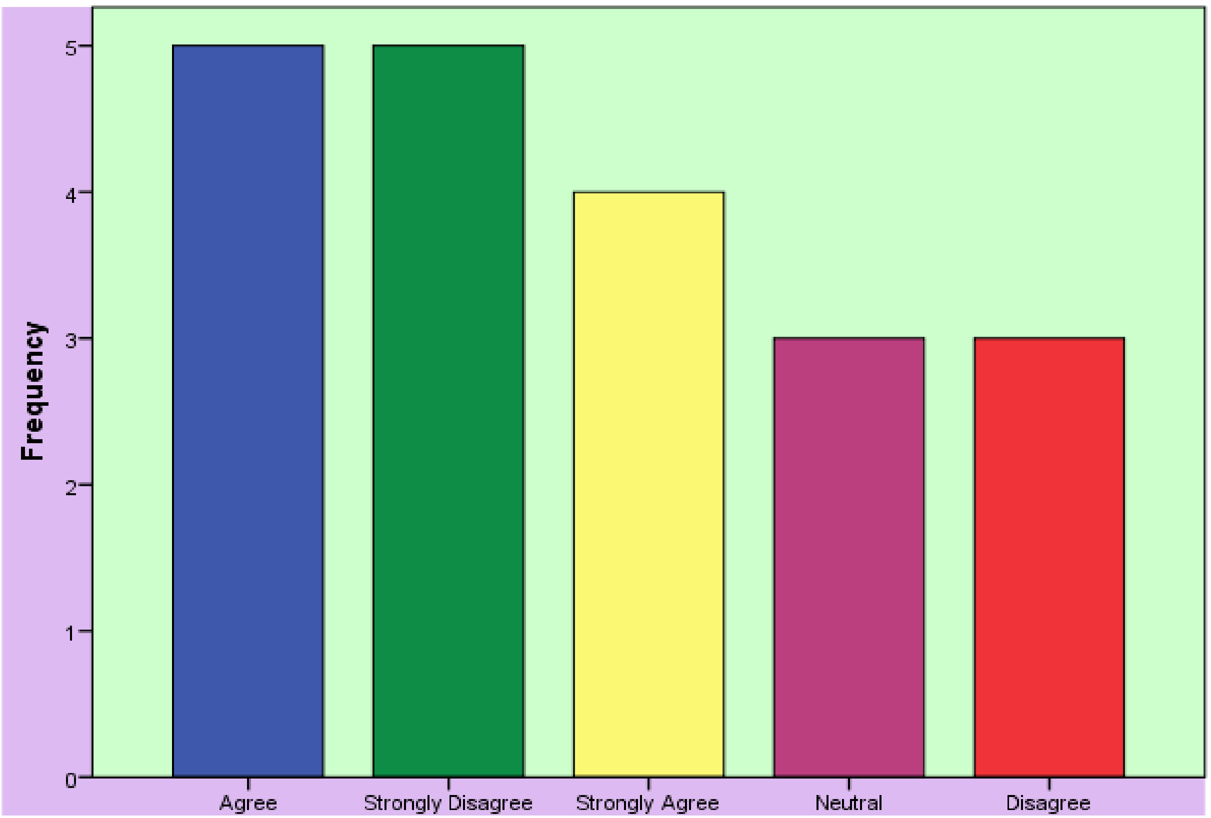
5.2.2 The Company established policies (if any) before the CPA were not functioning

This was a follow up question for those who said they had their own consumer policy; was their policy effectively functioning in terms of protecting consumers? The results found in table 5.2 and figure 5.2 below, reveal different conclusions to this question. One company agrees, and other company disagrees. In short, the first majority group reported “agree” (5; 25%) meaning that their consumer policies were not functioning. Others reported “strongly disagree” (5; 25%) meaning that their policies were functioning. However, based on the results provided by third group who responded “strongly agree” (4; 20%), the researcher suggests that consumer policies were out-dated and were not functioning. This would mean that many retail companies were not in-line with the Consumer Protection Act, and were likely to expose their business to compliance risks if necessary measures were not taken into consideration.

Table 5.2: the Company established policies (if any) before the CPA were not functioning

		Frequency	Percent
	Agree	5	25
	Strongly disagree	5	25
	Strongly agree	4	20
	Neutral	3	15
	Disagree	3	15
	Total	**20**	**100**

Figure 5.2: the Company established policies (if any) before the CPA were not functioning



The rest preferred to remain "neutral" (3; 15%); the researcher infers that other retailers chose to remain "neutral" because they did not want to expose themselves that their existing consumer policies were not functioning, that is why they responded "neutral". Had their consumer policies were functioning properly, they would not have chosen to remain quiet.

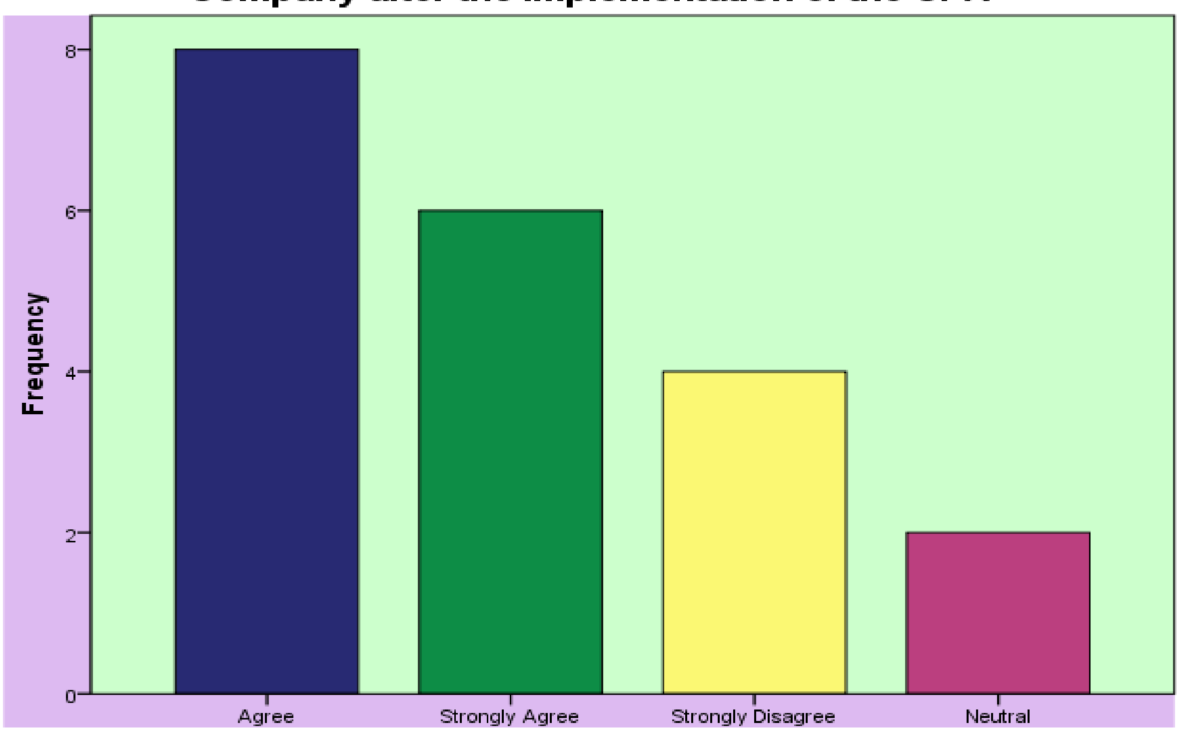
5.2.3 There are new rules that have been adopted by the company after the implementation of the CPA

The implementation of the CPA by the government has influenced all types of business to develop new rules or procedures that will help to enhance the functioning of the Act (John, 2010:2). Bearing this in mind, the researcher intended to find out if Retail Companies established new rules or procedures to support the functioning of the CPA. In other words, the researcher wanted to establish that retailers who had their own rules, were less vulnerable to compliance risks compared to those who did not.

Table 5.3: there are new rules that have been adopted by the company after the implementation of the CPA

		Frequency	Percent
	Agree	8	40
	Strongly agree	6	30
	Strongly disagree	4	20
	Neutral	2	10
	Total	**20**	**100**

Figure 5.3: there are new rules that have been adopted by the Company after the implementation of the CPA



As reflected in Fig 5.3 and table 5.3 above, most of the participants responded “agree” (8; 40%) and “strongly agree” (6; 30%) meaning that they adopted procedures or rules aimed at enhancing the functioning of the CPA. Very few retailers (4; 20%) reported not adopting their rules for the functioning of the CPA. The last group claimed to respond “neutral” (2; 10%), however, the researcher suggests these were retailers who did not have new rules at all because, had it been the case that their organizations did adopt the rules, they would not respond “neutral”, but rather, “agree” or “strongly agree”.

5.2.4 These new adopted rules are not effectively functioning

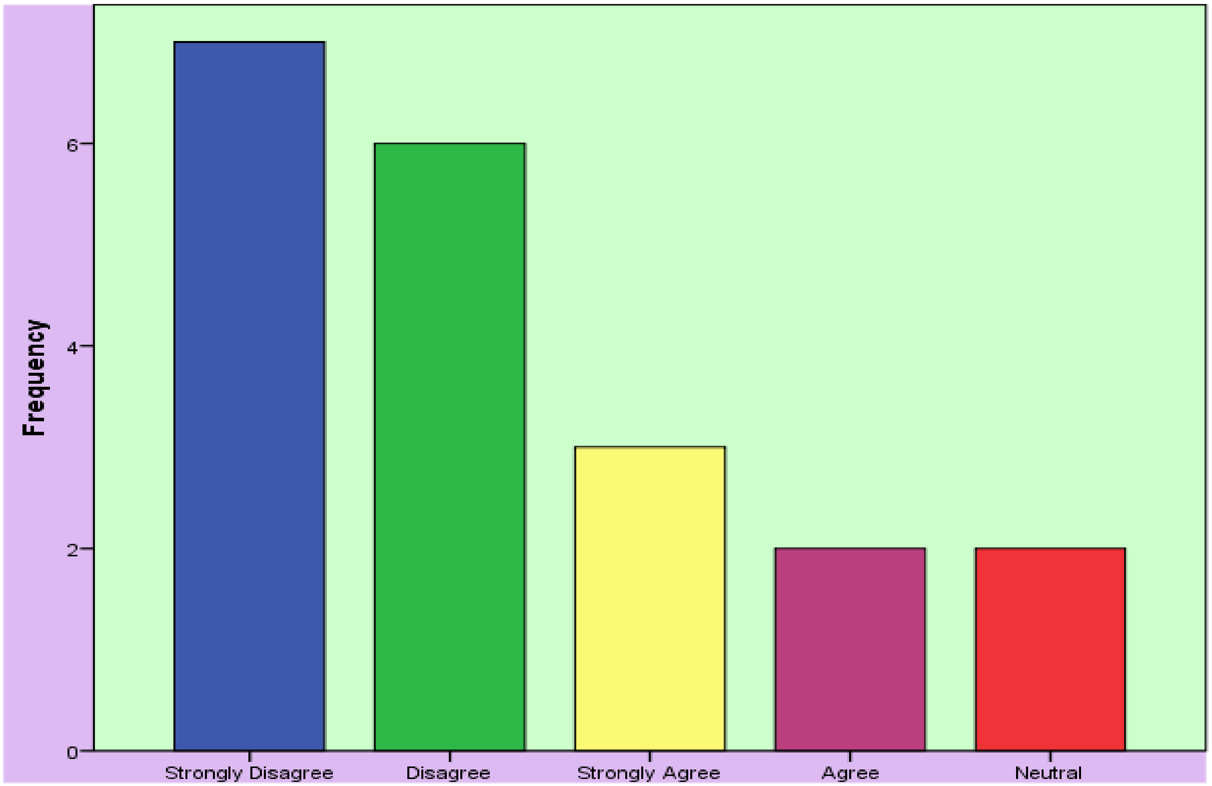
This was a follow up question. The highest results obtained in table 5.3 above reveal that retailers adopted the new rules aimed to support the CPA. Therefore, the question was: how effective those rules were, particularly, in the functioning of the Consumer Protection Act. The results for this question showed the following.

A large component of the participants reported “strongly disagree” (7; 35%) and “disagree” (6; 30%), as shown in figure 5.4 and table 5.4 below. From this it might be construed that, rules were effectively used to enhance the functioning of the CPA across their business units. This is followed by a small number of participants who responded “strongly agree” and “agree” (3; 15%, 2; 10%) accordingly. Based on these results, the researcher suggests that other retailers did not implement their rules, and as a result, they were not effective enough for the functioning of the CPA.

Table 5.4: these new adopted rules are not effectively functioning

		Frequency	Percent
	Strongly disagree	7	35
	Disagree	6	30
	Strongly agree	3	15
	Agree	2	10
	Neutral	2	10
	Total	**20**	**100**

Table 5.4: these new adopted rules are not effectively functioning



As you can see from the bar graph above, very few participants responded “neutral” (2; 10%). Based on these results, the researcher drew the following conclusions: the participants did not know whether their organizations implemented the rules or not, or they did not want to reveal that their organizations do not comply with the CPA. Had their rules been working effectively, they would not have chosen to remain “neutral”.

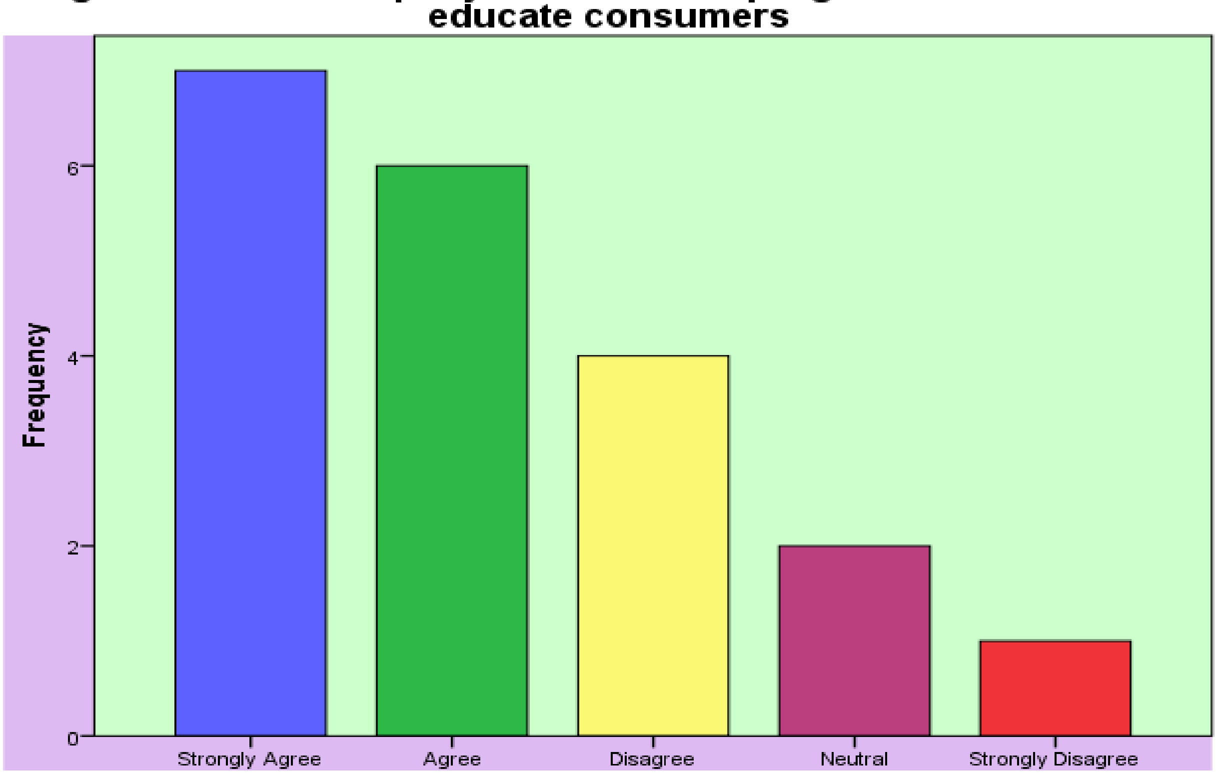
5.2.5 The Company established a programme that aims to educate consumers

This question intended to establish ‘Consumer Education’ as one of the compliance measures undertaken by retail companies. In other words, the researcher wanted to indicate that consumer education programmes would serve as a compliance measure to reduce compliance risks. According to the results presented in table 5.5 and figure 5.5 below, the majority of the participants reported “strongly agree” (7; 35%) and “agree” (6; 30%). This would mean that consumer education programmes were typically used as compliance measures aimed at eradicating compliance risks. Further, consumer education programmes also help consumers to understand their rights and become active participants in the buying process. For those who responded “disagree” (4; 20%) and “strongly disagree” (1; 5%); the researcher suggests the following reasons: these were retailers who did not have consumer education programmes at all; or they thought that by educating consumers it would give them their rights and therefore would not take advantage and mislead them.

Table 5.5: the Company established a programme that aims to educate consumers

		Frequency	Percent
	Strongly agree	7	35
	Agree	6	30
	Disagree	4	20
	Neutral	2	10
	Strongly disagree	1	5
	Total	**20**	**100**

Figure 5.5: the Company established a programme that aims to educate consumers



However, other participants claimed to remain “neutral” (2; 10%). Based on these results, it is not unreasonable to draw the following conclusion: it would mean that other organizations did not establish consumer education programmes; the top managers or directors have not yet talked about the issue with the middle level managers, as result, they do not know about the significance of educating consumers; and/or they did not have consumer programmes at all. If they had had, they would have chosen “strongly agree” or “agree” as others did.

5.2.6 The Company does not have emergency funds to cover small claims

The researcher sought to establish that retailers who save emergency funds are less vulnerable to compliance risks than those who do not (i.e. emergency funds would serve as one of the compliance measures). Further, emergency funds would be used to reduce other compliance risks from further occurring. The results for this question are contained in figure 5.6 and table 5.6 below. Most of the participants reported “strongly disagree” (12; 60%) and “disagree” (5; 25%).This was strong evidence that they all meant to “agree” that emergency funds would serve as one of the compliance measures.

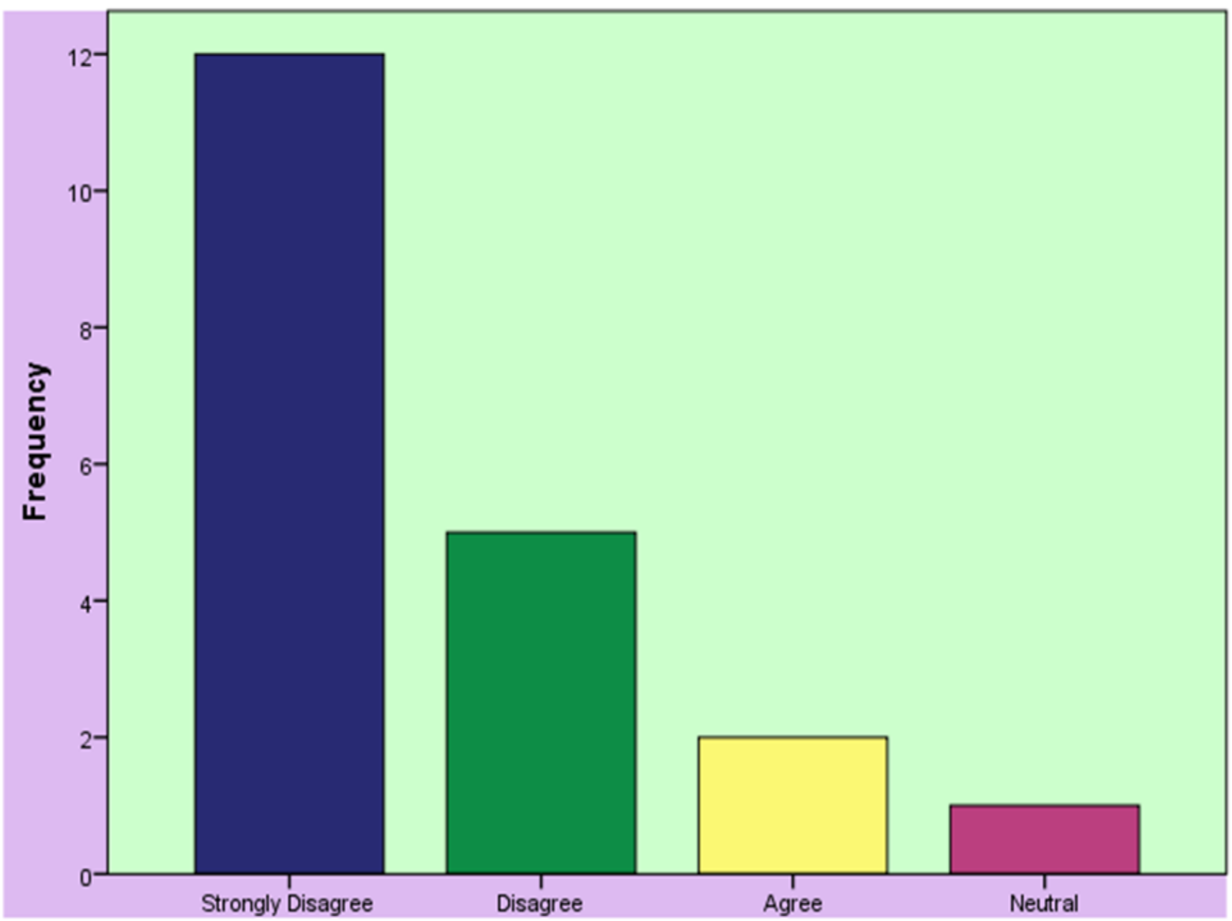
In other words, the majority of retailers had emergency funds in place, which aims to cover small financial loss or physical damage caused to consumers. Contrary to the majority responses above, very few participants responded “agree” (2; 10%) and “neutral” (1; 5%). This small number is an indicative of the fact that other retailers do not have emergency funds across their business units. The researcher also suggests the following reasons: it would entail that, emergency funds would be there, but it is only known by the top executive members, as result, managers at the bottom level do not know whether the emergency funds exist or not.

Further, they might also fear that if they disclose information about the availability of their emergency funds, someone would plan to rob them, or their bosses told them not to open their mouths regarding the emergency funds; or they were hiding the truth that they did not have emergency funds at all.

Table 5.6: the Company does not have emergency funds to cover small claims

		Frequency	Percent
	Strongly disagree	12	60
	Disagree	5	25
	Agree	2	10
	Neutral	1	5
	Total	**20**	**100**

Figure 5.6: the Company does not have emergency funds to cover small claims



In generally, businesses would save emergency funds for the following reasons: to pay for small bills or credits, hire urgent equipment or purchase of immediate stationery items, or buy immediate products for the on-going operation of the business.

5.2.7 The Company did not purchase insurance policy to cover large claims

Most businesses nowadays purchase insurance policies to cover high, medium or low uncertainty risks, such as sinking of the ship, damage caused by fire, large transit robbery, or loss of commodities caused by fluctuation of the economy. Bearing this in mind, the researcher intended to establish that insurance policies would serve as one of the compliance measures. A further indication was that retailers who purchase insurance policies are less exposed to compliance risks compared to those who do not.

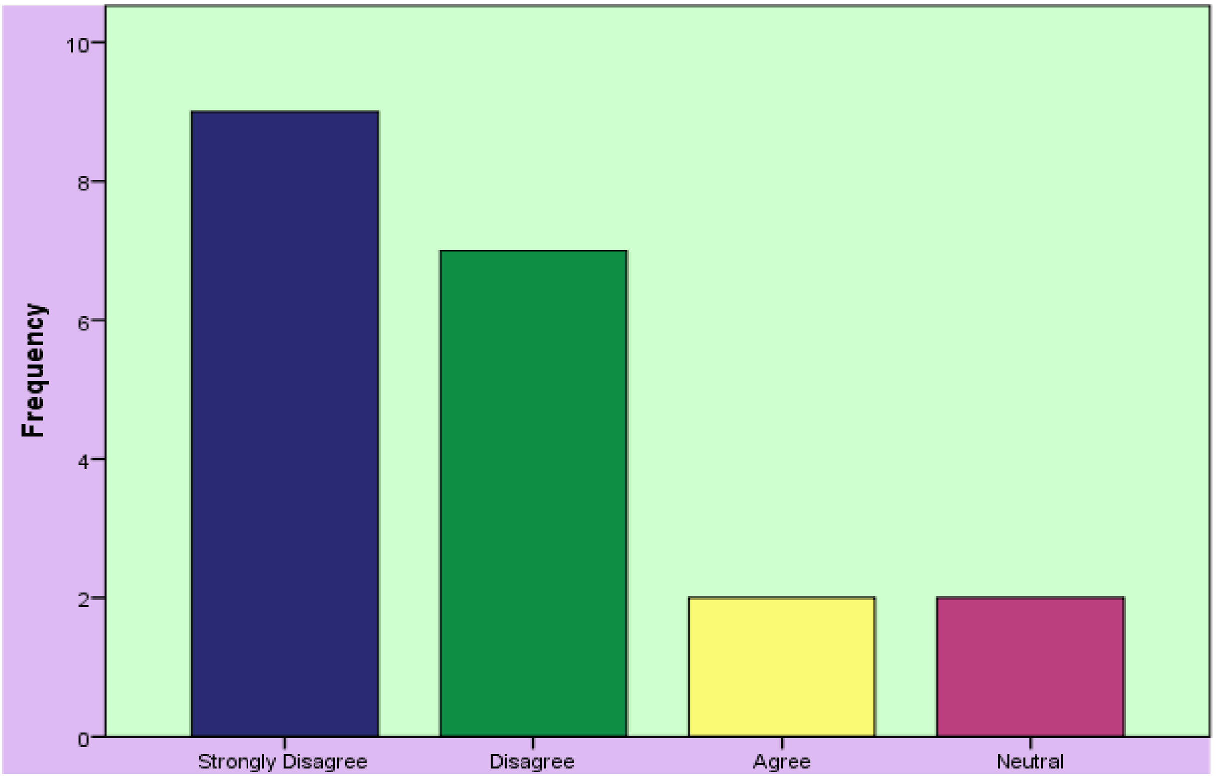
Table 5.7 and figure 5.7 below show a large number of participants (9; 45%) and (7; 35%) who reported that insurance policies were really used as compliance measures aimed to cover large financial losses or physical damage caused to consumers. This would also prove that retailers who purchase insurance policies are less exposed to compliance risks than those who do not. "Agree" (2; 10%) and "neutral" (2; 10%) produced similar results. However, the first result ("agree") reveals that few retailers did not employ insurance policies as one of the compliance measures. The danger of this is that retailers would face severe risks if an unforeseen event happened.

"Neutral" (2; 10%) were the final results for this question; as suggested by the researcher, the following reasons apply: these participants were not aware that their board of directors purchased insurance policy for the business; the Top executives were hiding this information deliberately, maybe because other members in the organization abuse resources of the business, particularly if they know that certain property or equipment has been insured; or they did not have insurance policy at all.

Table 5.7: the Company did not purchase insurance policy to cover large claims

		Frequency	Percent
	Strongly disagree	9	45
	Disagree	7	35
	Agree	2	10
	Neutral	2	10
	Total	**20**	**100**

Figure 5.7: the Company did not purchase insurance policy to cover large claims



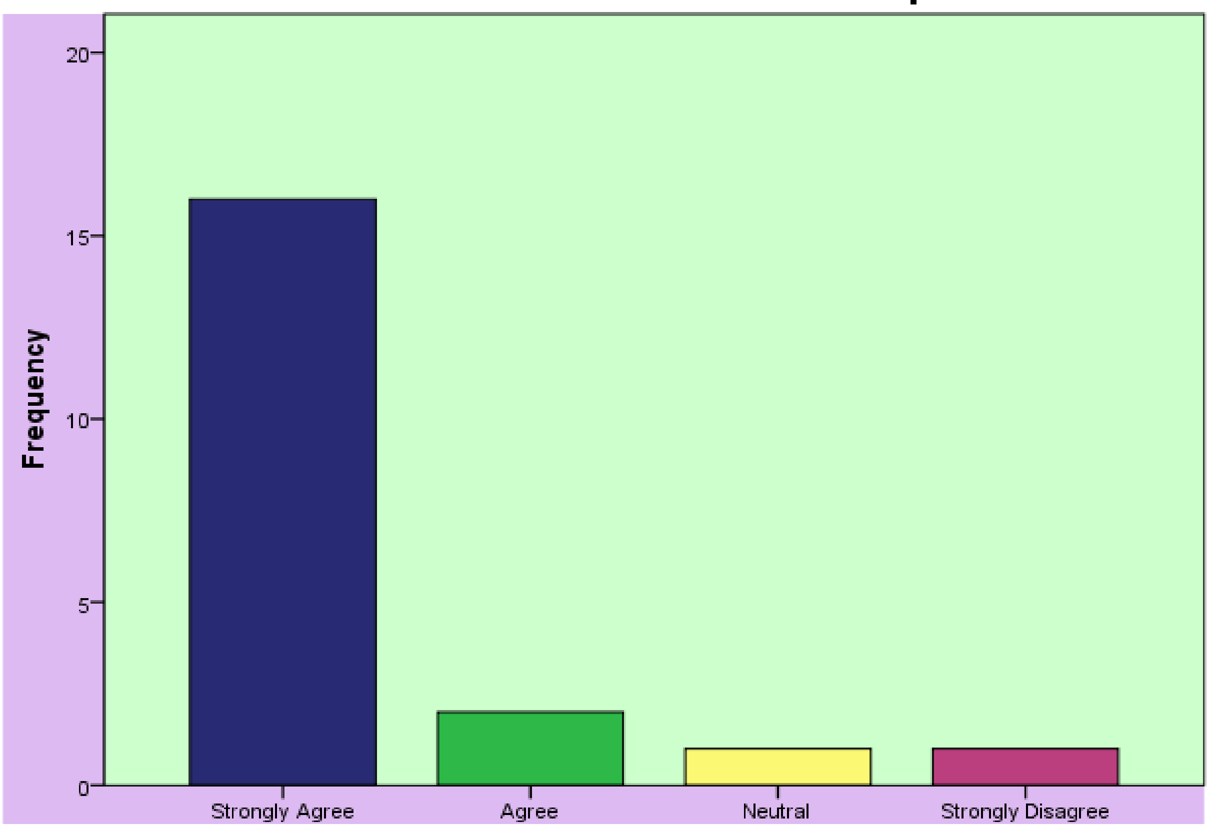
5.2.8 Each branch of the Company has a special customer consultant who deals with customer complaints

Under this question, the researcher wanted to establish that a customer consultant would serve as a compliance measure. In addition to that, the researcher wanted to indicate that retailers who use customer consultants are less exposed to compliance risks than those who do not. As indicated in figure 5.8 and table 5.8 below the highest responses obtained (16; 80%) and (2; 10%) revealed that customer consultants were serving as one of the compliance measures in their organizations. Therefore, there is great evidence that retailers who use customer consultants are less exposed to compliance risks compared to those who do not. "Neutral" (1; 5%) and "strongly disagree" (1; 5%) were minority results obtained from the last group of the participants. "Neutral" (1; 5%) would mean the following reasons: customer consultants were only available in their main branches or in branches located in big towns or cities, hence, they couldn't choose "agree" or "disagree"; their customer consultants were not functioning for the benefit or interest of the consumers; or they did not have consumer consultants at all, including in their main branches, towns or cities.

Table 5.8: each branch of the Company has a special consumer consultant who deals with consumer complaint

		Frequency	Percent
	Strongly agree	16	80
	Agree	2	10
	Neutral	1	5
	Strongly disagree	1	5
	Total	**20**	**100**

Figure 5.8: each branch of the Company has special consumer consultant who deal with consumer complaints



"Strongly disagree" (1; 5%) indicated those retailers who did not have or use customer consultants in their organizations.

5.2.9 Quality Control/Assurance is not one of the focuses for the Company

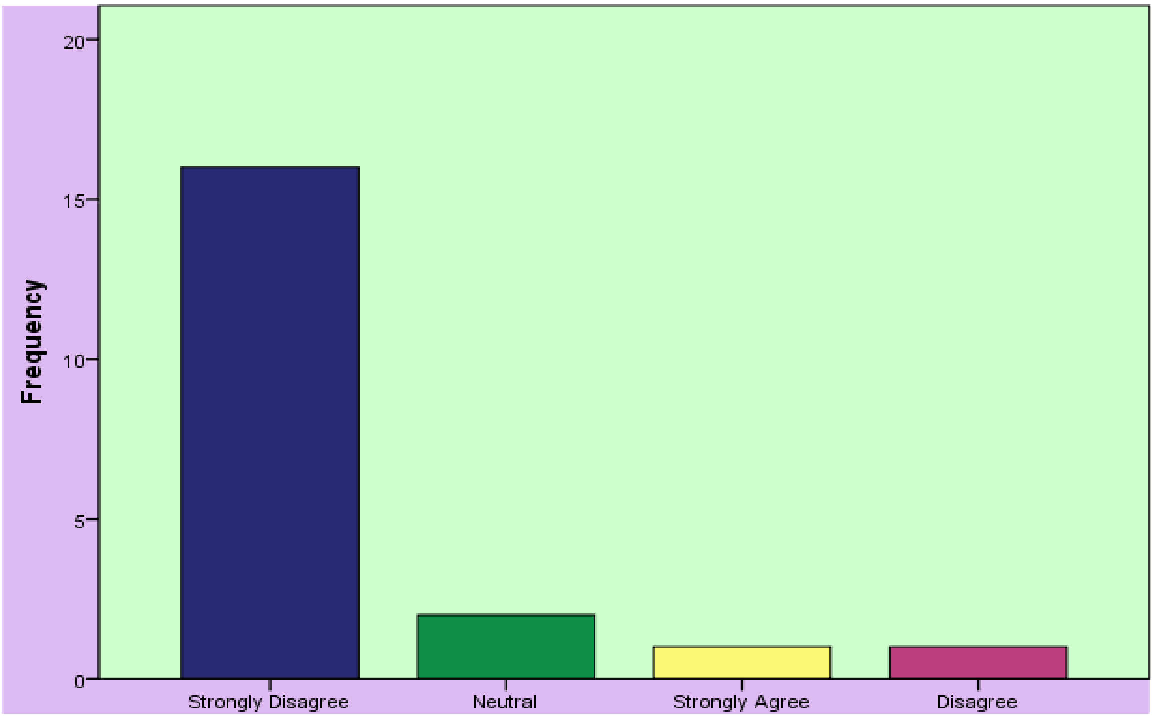
The main aim for this question was to establish that quality assurances would serve as one of the compliance measures in retail companies. Further, the researcher wanted to indicate that retailers who do not use quality control or assurances are more exposed to compliance risks than those who do.

The results for this question are presented in table 5.9 and figure 5.9 below. Significantly, most of the participants responded “strongly disagree” (16; 80%) revealing that, quality assurances were used as one of the compliance measures in their organizations. This would prove the fact that retailers who use quality control are less exposed to compliance risks than those who do not. The following reasons would apply to the participants who responded “neutral” (2; 10%): the participants would think that quality assurance or control is associated with the producer only; quality assurance is not yet implemented across business units; or they do not use quality assurance at all. Had their organizations been using quality assurance, they would not have respond “neutral”.

Table 5.9: Quality Control/Assurance is not one of the focuses for the company

		Frequency	Percent
	Strongly disagree	16	80
	Neutral	2	10
	Strongly agree	1	5
	Disagree	1	5
	Total	**20**	**100**

Figure 5.9: Quality Control/Assurance is not one of the focuses for the company



In conclusion, minority participants responded “strongly agree” (1; 5%) as shown above, meaning that their companies do not focus on quality control or assurances.

5.2.10. There are few employees sent for CPA training

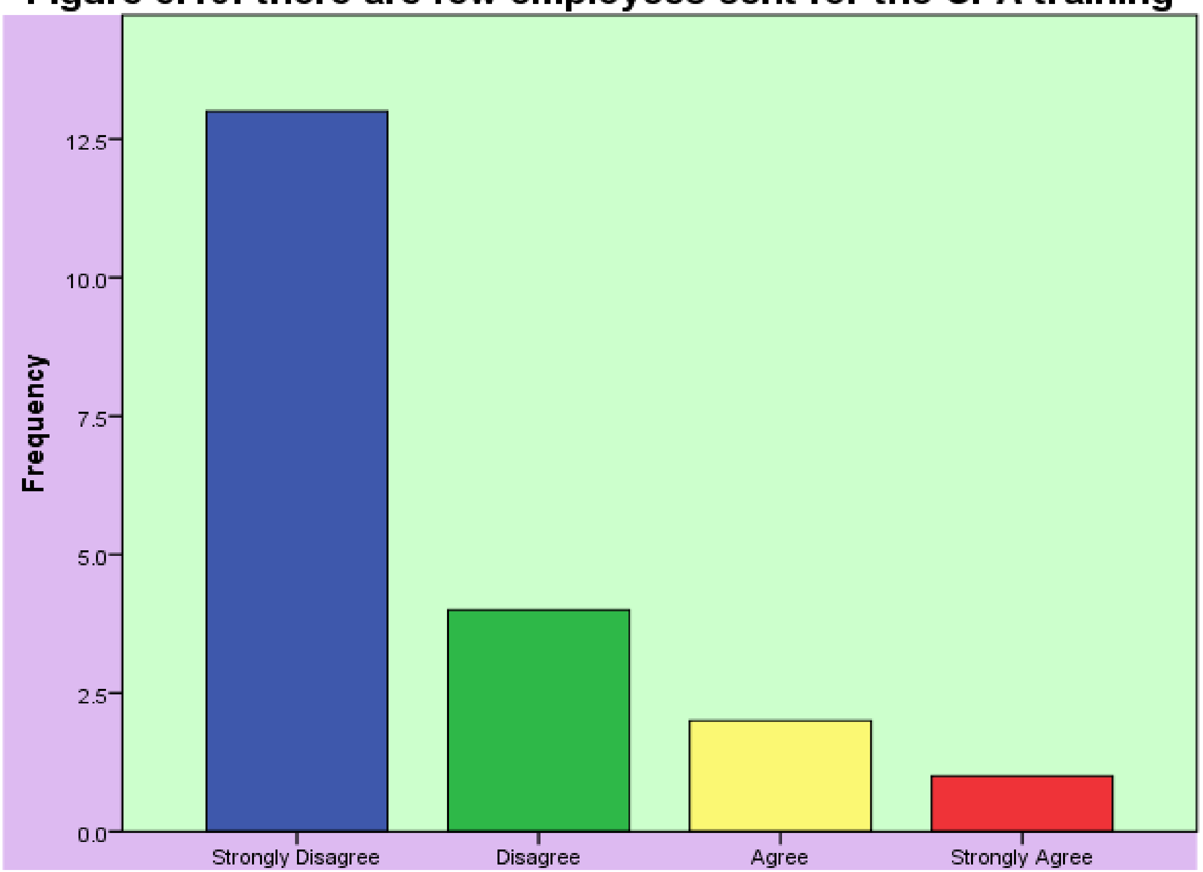
This question aimed to establish the fact that compliance training would serve as one of the compliance measures in retail companies. Further, the researcher wanted to show that retailers who train their employees are less exposed to compliance risks than those who do not. The result for this question is revealed in table 5.10 and figure 5.10 below. Almost all the participants chose “strongly disagree” (13; 65%) and “disagree” (4; 20%) meaning “employee training” was serving as a compliance measure in their organizations. Therefore, there is great evidence to conclude that retailers who train their workers are less exposed to compliance risks than those who do not. The results would also indicate that majority of the retail companies are aware of the importance of compliance training towards their employees. Trained employees are more productive and cautious when handling customer issues/rendering of services than untrained ones.

Minority results (2; 10%) and (1; 5%) indicates that very few employees attended compliance training. The following reasons may also apply: these were some of the retailers left behind in terms of providing compliance training to their subordinates; the employees were told about the implementation of the CPA, but the Company has never arranged anything regarding the compliance training or workshops; other companies are very stingy when it comes to training their employees, as they feel that it is an expense for the business, but this would serve as investing in employees.

Table 5.10: there are few employees sent for CPA training

		Frequency	Percent
	Strongly disagree	13	65
	Disagree	4	20
	Agree	2	10
	Strongly agree	1	5
	Total	**20**	**100**

Figure 5.10: there are few employees sent for the CPA training



5.2.11. I, the Manager/Supervisor have not yet attended CPA training

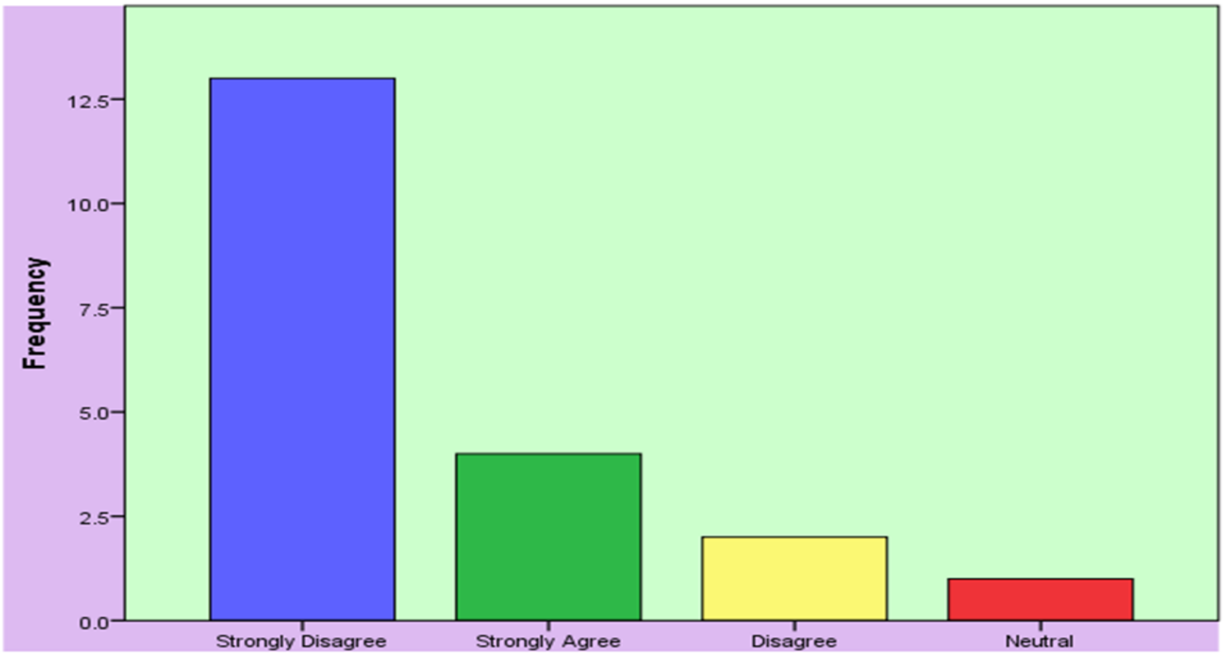
This question assumed to establish that managers and supervisors who have attended compliance training would serve as one of the compliance measures in their organizations. A manager or supervisor who is well trained is able to advise, motivate, encourage and teach other colleagues about the compliance risks that the business would face if necessary orders or rules are not taken into consideration. The results reflected in figure 5.11 and table 5.11 reveal that most of the participants (13; 65%) and (2; 10%) supported the fact that trained managers and supervisors would serve as compliance measures within their organizations. It also shows that there was a large number of managers and supervisors who attended compliance training.

In addition, a trained manager or supervisor disseminates important information within the organization such as rules, procedures, awareness and warnings, particularly to those who are reckless. Also, from time to time, managers ensure that customers are treated fairly by their subordinates, as they become friendlier to their customers. Other participants picked “strongly agree” (4; 20%) showing that their organizations did not provide compliance training for their managers and supervisors. It would also mean that managers and supervisors received the CPA guidelines or written documents, but did not attend formal training.

Table 5.11: I, Manager/Supervisor have not yet attended CPA training

		Frequency	Percent
	Strongly disagree	13	65
	Strongly agree	4	20
	Disagree	2	10
	Neutral	1	5
	Total	**20**	**100**

Figure 5.11: I, Manager/Supervisor have not yet attended the CPA training



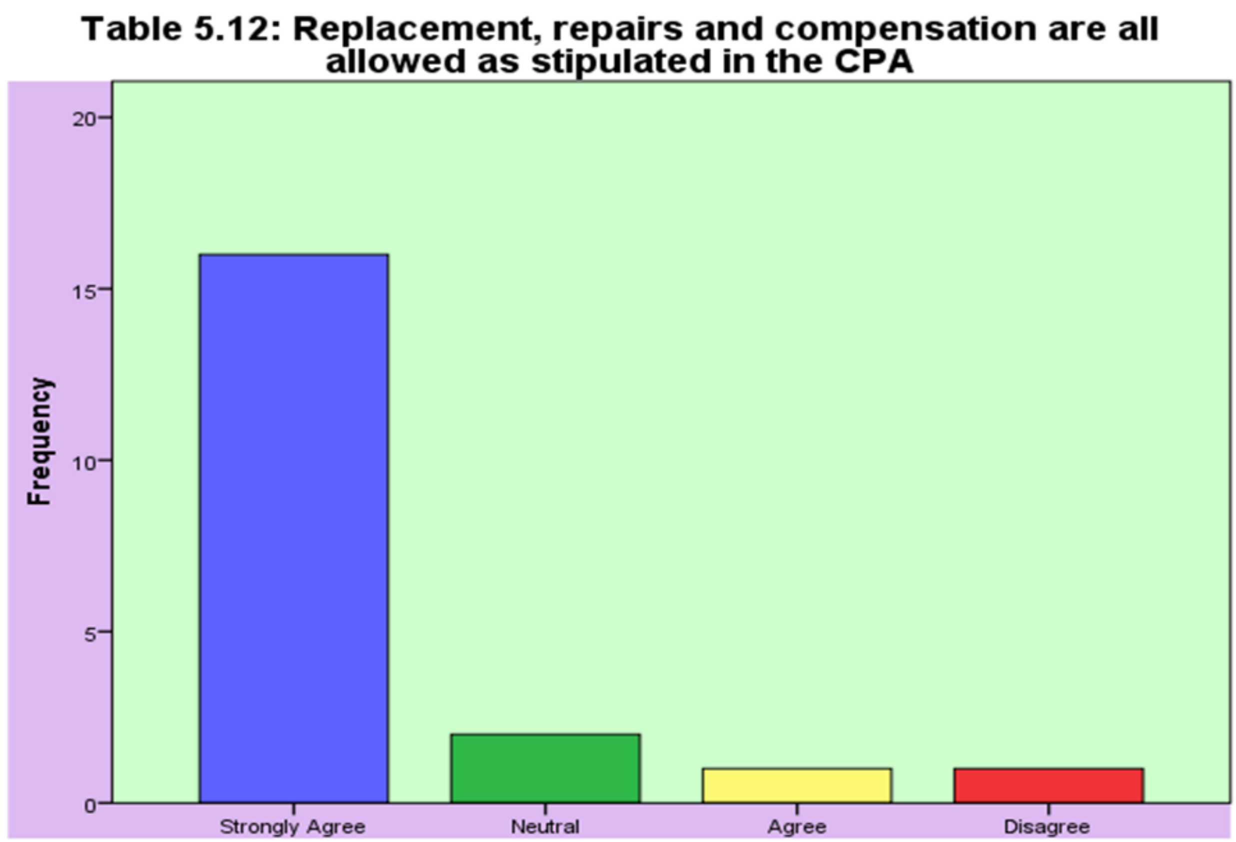
The fewest number of participants responded “neutral” (1; 5%). Based on this result, the researcher suggests the following reasons: their companies did not implement the CPA, and as result there was no need for the participants to attend training; managers and supervisors received the CPA’s written documents and guidelines, but did not attend formal training; or they did not attend trainings at all; had they attended compliance training, for sure, they would not have bothered choosing “neutral”.

5.2.12 Replacement, repairs sand compensation are all allowed as stipulated in the CPA

The main aim of this question was to establish that refund, repair, replacement or compensations would particularly be used as one of the compliance measures in retail businesses. Further, the researcher wanted to indicate that retailers who allow repairs, refund, replacement or compensations as stipulated in the CPA, would face less compliance risks compared to those who do not. To reiterate, section 61 of the CPA introduces drastic remedies for consumers, who suffer injury or illness, or the loss of financial or physical damage to movable or immovable property as a result of having been supplied unsafe or defective goods, or if they are given inadequate warnings or instructions regarding hazards which may arise from using the goods supplied. Merging these facts with the results obtained in table 5.12 and figure 5.12 below, most of the participants reported “strongly agree” (16; 80%) and “agree” (1; 5%) meaning that these remedies were really employed as one of the compliance measures in retail spheres. This would also prove the fact that retailers who do not use consumer remedies such as those mentioned above, are more exposed to compliance risks than those who do.

Table 5.12: Replacement, repairs and compensation are all allowed as stipulated in the CPA

		Frequency	Percent
	Strongly agree	16	80
	Neutral	2	10
	Agree	1	5
	Disagree	1	5
	Total	**20**	**100**



Looking at the number of participants who responded “neutral” (2; 10%) brings the following suggestions: they can refund, repair or compensate only if the business benefit; their organizations do not allow/permit customers to exercise their consumer remedies at all; because, had it been they were using consumer remedies, their responses would not be “neutral”. Very few participants responded “disagree” (1; 5%) indicating that other retailers do not comply.

5.3 What are the likely challenges the Company face while complying with the CPA?

This question required the participants to list a number of challenges that the company was currently facing while complying with the CPA. Most of the participants reported that they were not facing challenges regarding the compliance of the CPA. Very few participants listed challenges. Some of the responses are as follows:

1. From the banks, when a customer cancels the product it becomes costly, in terms of setting up a customer profile and cancelling the product.
2. It demands more time to give advice to the customers who lack full information about the CPA.
3. Inability to send all the staff on time for compliance training.
4. Some customers are not educated and do not understand bank products. A staff member may help them to choose a certain product, but sooner or later they lay a complaint about the product offered to them.
5. Monitoring staff members to ensure that they are complying is time consuming.
6. It is a big challenge giving someone credit who has never had an account previously (as stipulated in the Act), because we have no credit history or payment record.
7. Interpretation of the CPA can mislead other people.
8. Educating employees to educate consumers is another challenge.

5.4 What are the likely opportunities associated with the CPA?

This question also required participants to list a number of opportunities associated with the CPA. However, the majority of the participants responded that there were no opportunities associated with the compliance of the CPA. The following opportunities were listed by a few participants:

1. We get the opportunity to return existing customers because we have knowledgeable staff who takes care and handle compliance problems if they arise.

2. We also get new customers from other companies that are dissatisfied with their current services because of lack of application of the CPA.

3. There is no need to resolve problems because clients are given correct products as stipulated and recommended by the CPA.

4. By understanding customers' needs and their rights, it saves time to do other things.

5. Clients are granted credit with what they can afford; our system scores them according to affordability.

6. The Act gives us authority to make restrictions on clients whose debts are sequestrated.

7. It will eradicate individuals that took advantage of consumer ignorance.

Conclusion

This chapter analysed all the data collected from the participants (supervisors and managers) of the Retail Companies in the North Coast of Kwazulu Natal regarding compliance with the Consumer Act. The results were obtained from 20 participants who responded through structured interviews and questionnaires. The chapter analysed all the primary data gathered from the research participants including 'proposed compliance measures' discussed in chapter three.

Above all, findings have reported that the majority of the retail companies had compliance measures in place, particularly, after the implementation of the CPA. The results have also revealed the use of 'proposed compliance measures' as one of the measures used to control or reduce compliance risks. In answering the overall objective of the study, the findings typically revealed that a large number of retailers developed new rules and procedures that enhanced the functioning of the CPA (refer: figure 5.3 and table 5.3 above).

CHAPTER 6

CONCLUSIONS AND RECOMMENDATIONS

6.1 Introduction

This chapter summarizes the research findings with discussions and conclusions of the results and provides recommendations for further research. Discussions are only based on the aims, objectives and the findings obtained from each question. The conclusion is based on the overall results (findings) gathered, and recommendations will suggest directions needed for further studies. The aims, objectives and research questions formulated at the beginning of this study are now outlined again.

The main aim for the study was to examine and establish the compliance measures adopted by the retail companies in compliance with the CPA. In other words, what compliance measures they take to comply with the CPA.

The aim above demanded the following objectives to be achieved

1. To establish the instruments (policies) that have been adopted by the retail companies in compliance with the CPA.

2. To investigate if they implemented those instruments.

3. To establish the likely challenges or opportunities associated with compliance with the CPA.

The above objectives were simplified into research questions

1. What policies or instruments have been adopted by the retail companies in compliance with the CPA?

2. To what extent do they follow those instruments or policies?

3. What are the likely challenges they face while complying with the CPA?

4. What are the likely opportunities associated with the CPA?

6.2 A brief discussion based on the aims, objectives and research questions are now outlined

6.2.1 Discussions based on the aim of the study

Again, the overall goal/aim of the study is to examine and establish the compliance measures adopted by the retail companies in compliance with the Consumer Protection Act. The researcher identified the problem that there has been a concern, particularly from the side of the retail companies that the CPA will affect their businesses negatively, mainly because: they are closer to the consumers than producers, wholesalers, or suppliers and they are the last link in the chain of distribution of goods (Marshall and Keith, 2010:1). Hence, the researcher proposed compliance measures that would help retailers in terms of reducing compliance risks they would face. Through analysis of compliance measures, the researcher is able to determine whether retail companies had compliance measures in place or not.

6.2.2 Discussions based on the objectives of the study

To establish instruments (policies) that have been adopted by the retail companies in compliance with the CPA. First, the researcher used the word ‘instruments’ meaning procedures, rules, policies or compliance measures. The fulfillment of the first objective mentioned above is established by the findings reflected in figures 5.1, 5.3 and tables 5.1, 5.3 of chapter five. To be realistic, the majority of the participants (11; 55%, 8; 40%) revealed that retailers had consumer policies before and after the enforcement of the CPA. However, the difference between the two is that the existing consumer policies before the CPA were outdated and were not functioning, while the policies after the CPA were functioning effectively (refer figures 5.2, 5.4 and tables 5.2, 5.4 accordingly).

The second objective was to investigate whether or not they implemented new instruments. The aim of this objective was to find out if new instruments were aimed at enhancing the working of the Consumer Protection Act. In other words, for retailers who said they had new consumer instruments in place, were those instruments working effectively? The findings are clearly shown in figure 5.7 & table 5.7; a large number of responses (14; 70%) showed that, new instruments were working effectively, particularly, by enhancing the functioning of the CPA.

The third objective aimed to establish the likely challenges and opportunities associated with compliance with the CPA. However, most of the participants indicated that they were not facing challenges or opportunities associated with the CPA. Very few participants indicated the following challenges which are also highlighted in the previous chapter: monitoring staff members to ensure they are complying; time taken giving advice to customers who lack full information about the CPA; and educating employees to educate consumers.

Likely opportunities were: dismissing individuals who took advantage of consumer ignorance; also the Act gives companies the authority to make restrictions on clients whose debts are sequestrated; companies get new customers from other companies that are dissatisfied with their current services because of lack of application of the CPA; other companies get the opportunity to return existing customers because they have knowledgeable staff who takes care and handle compliance problems; finally, clients are granted credit according to what they can afford, as the system scores clients according to what they can afford to pay.

6.3 Discussions based on the research questions

Research questions and objectives sought to establish one common goal for this study. Therefore, discussions based on the objectives would render similar explanation to research questions. In other words, I would advise the reader to go through research questions again and see how related or similar they are with objectives. However, only the first research question will be discussed, because it was further simplified into eight questions, which specifically intended to establish whether retail companies had compliance measures or not. These questions and their findings are discussed below.

6.3.1 The Company established a programme that aims to educate consumers

In South Africa, consumer assistance programmes must be carefully structured to promote consumer confidence and to work cooperatively with product provider plans, payers and regulators. Current understanding by consumers and businesses on implied conditions, remedies, warranties and guarantees about the Act is limited, leading to confusion and uncertainty about the application of the Act (AGFR, 2009). Hence, the researcher proposed that retail companies would take initiatives to educate consumers that would also serve as compliance measure. A large number of responses (13; 75%) reflected in table 5.8 and figure 5.8 showed retail companies using consumer education programmes as one of the compliance measures. The results would also mean that the South African Department of Trade and Industry, Consumer Agencies, Producers, Suppliers and Retailers should work together in order to achieve the following: informing and educating consumers and other businesses about the statutory Consumer Protection Act, and developing and publishing clear and consistent information and guidance for consumers about statutory consumer remedies and liabilities.

6.3.2 The Company does not have emergency funds to cover small claims

The main idea of having emergency or disaster funds is for those times in which the business needs extra money for unknown risks or emergencies. Therefore, when a business is deciding how much it should have in its disaster fund, it needs to make sure that it has enough to cover those expenses that may arise. However, there is no specific way of knowing what amount it will need to save for certain emergency. Hence, the researcher sought to establish that emergency funds would serve as one of the compliance measures that would help to control or reduce small claims from further happening. The overall results (17; 85%) in figure 5.6 and table 5.6 revealed that most of the retail companies were using emergency funds as one of their compliance measures. An earlier study by Money Reasons (2011:1) also added that, if businesses do not have emergency funds in the event of financial crisis, then they may have to borrow money. Yet, borrowing more money in this type of situation will only worsen their financial state; thus, having emergency funds is very important for the on-going process.

6.3.3 The Company did not purchase insurance policy to cover large claims

In today's business, insurance is one of the important measures of any sound financial plan. It enables small businesses to compete upon more equal terms with the bigger organizations. Highest responses (16; 80%) as shown in table 5.7 and figure 5.7 revealed that retail companies were using insurance policies as one of the compliance measures to cover large financial losses. Insurance policies also help to protect businesses in different ways against the cost of physical losses and consumer illness or death. It helps to remove various types of fear and offer peace of mind. Therefore, without insurance, it would have been impossible for the retailers to undertake the risks themselves. However, in the absence of an insurance policy, these losses and costs would be assessed and distributed only by guess work.

6.3.4 Each branch of the Company has a special customer consultant who deals with customers' complaints

The researcher wanted to indicate that, customer consultants would serve as compliance measures in their retail organizations. In simple terms, retailers who use customer consultants have more chances of reducing number of complainants, unsolved problems, and other compliance risks towards the company. The findings in table 5.6 and figure 5.6 have also reported that, a large number of participants (18; 90%) favoured customer consultants acting as compliance measures in retail organizations. This proves the fact that successful retailers share their basic knowledge, structures, customer needs, sales projections and their strategic goals with those of customer consultants. It is significant to suggest that, for the company to be successful and achieve its both short and long term objectives, customers should be the core focus centre, above all, they should be satisfied; hence, customer consultants are vital for the functioning of the business.

6.3.5 Quality Control or Assurance is not one of the focuses for the Company

How many times have you returned a product to the shop or store in which you bought it, or how many times you discovered the product you just bought is not working, rotten, or broken? Retailers would face such problems particularly when customers bring faulty products they bought from the same company. However, the main aim is not to expose retailers as the ones who sell poor quality or faulty products, but to ensure that they use quality assurance. They have to make sure that their products are free from defect and hazards. In short, the purpose for this question was to establish that quality assurance would serve as one of the compliance measures intended to eradicate compliance risks associated with the failure of their products. The combined results (16; 80%) obtained in table 5.9 and figure 5.9 prove that most of the retail companies were using quality assurance as compliance measures, mainly, to reduce compliance claims that would arise due to the failure of their products.

6.3.6 There are few employees sent for CPA training

Compliance training helps in understanding the legal boundaries within which an organization operates; it serves the purpose of educating employees on the laws and regulations pertaining to their industry or specific job function; and above all, compliance training is the key priority of all organizations as it helps an organization to meet its legal obligations and standards (Arindam, 2011). Bearing this in mind, the researcher wanted to find out whether retail companies have provided compliance training to their employees or not. The aim was to indicate that employees who have received compliance training would serve as compliance measures in their organizations. The combined results (17; 85%) have shown that trained employees were regarded as part of compliance measures in their organizations. Most of them received compliance training after the implementation of the CPA (results are provided in table 5.10 and figure 5.10).

The following reasons by Arindam (2011:1) also apply as to why compliance training would serve as compliance measures in an organization.

It helps to keep pace with change: there are cases where businesses often run the risk of violating the law if they fail to keep pace with the latest changes, particularly in industries which are subject to frequent changes in compliance matters. For this reason, organizations often opt for frequent training programmes to keep their employees abreast of current trends. It increases transparency: adhering to procedures as a matter of compliance ensures greater transparency within the organization. With greater transparency, it becomes easy to track when there is a compliance violation.

It encourages a better workplace culture: having a good compliance training programme ensures that employees understand the expectations, standards and obligations towards the organization and towards customers. They understand their roles better, perform their tasks with confidence and will take their obligations seriously; this sets the tone for a better workplace culture.

Risk management: finally, some possible sources of risks including the production process, product or service delivery, information management, customer relations and so on can be effectively managed through compliance training.

6.3.7 I, the Manager or Supervisor have not yet attended CPA training

Compliance training should provide guidance on how managers can address risks within an organization. This includes, of course, some things that they can do on their own, e.g., recognizing and encouraging ethical behavior by their subordinates. An efficient management is the backbone of every successful company. Hence, the researcher sought to establish that well trained managers and supervisors would serve as one of the compliance measures in their organizations. In viewing the combined results (13; 65%) obtained in table 5.11 and figure 5.11, more managers and supervisors attended compliance training and were also serving as compliance measures in their organizations. Verma (2009:1) and (Jeff, 2011:1) added the following benefits of trained managers: they help their organizations to deal with a variety of problems; they help to maximize the performance of the other members working for the organization; it teaches them to deal with underperforming employees and coach them for higher performance; finally, training helps managers to develop some key skills.

Other benefits of training employees are:

Training improves morale of employees: training helps to improve job satisfaction and the morality of the employees; the more satisfied the employee the greater is his or her morale, the more he or she will contribute to organizational success and the less will be employee absenteeism and turnover.

Training makes for less supervision: a well-trained employee will be well acquainted with the job and will need less supervision. Thus, there will be less wastage of time and effort.

Proper training reduces accidents: errors are likely to occur if employees lack the knowledge and skills required for doing a particular job. The more trained and proficient an employee is, the less are the chances of causing accidents in the job (Verma, 2009:1; Jeff, 2011:1; Arindam, 2011:1). The implementation of compliance training will ensure that employees work within regulatory parameters.

6.3.8 Replacement, repairs and compensation are all allowed as stipulated in the CPA

Finally, discussion based on this question depicts consumer remedies that need to be exercised by retailers when for example, a customer bought a microwave which worked for two days only, or a steam iron which worked for two weeks only. In these situations, customers have the right for their products to be replaced, repaired, refunded or compensated as stipulated in Section 61 of the Consumer Act. There is also great evidence revealed in the finding (17; 85%) found in table 5.12 and figure 5.12 that, consumer remedies were used as recommended by the CPA. This would also mean that consumer remedies were serving as compliance measures.

Nisha (2008:1) highlighted some of the common remedies granted under Consumer Protection Act. The following remedies should apply: remove the defect pointed out by the specialist from goods in question; remove the deficiencies in the services in question; replace the goods with new goods of similar description (which shall be free from any defect); pay such amount as may be awarded by it as compensation to the consumer for any loss or injury suffered by the consumer due to negligence of the other party; return the complainant the price or, as the case may be, the charges paid by the complainant; not to offer the hazardous goods for sale; and to withdraw the hazardous goods from being offered for sale.

6.4 Conclusion based on the aim of each chapter

Every chapter had its own objective to be carried out. Many issues have been discussed regarding the compliance of the CPA, remedies and protection of consumers as well as compliance measures. The conclusion therefore is based on the aim of each chapter (thus chapter 1, 2, 3, 4 and 5), and thereafter, the major findings for the study. The conclusion based on major findings will specifically dwell on combined results and on the large proportionality of responses obtained in chapter 5. The following page introduces summaries based on each chapter.

6.4.1 Brief summary of chapter one

The main aim of this chapter was to develop the problem statement, aims of the study, objectives and its benefit. The study (problem statement) wanted to find out how Retail Companies comply with the Consumer Protection Act. The chapter aimed to examine and establish the compliance measures adopted by the retail companies. Theories and models based on consumers' rights, protection and their participation in the market were reviewed in chapter two.

6.4.2 Summary based on literature reviewed

The theoretical models of Consumer Behaviour revealed that, individual, social and prevailing purchase situations were three set of variables that influence consumer decision-making process of whether to buy or not to buy the product. Therefore, knowing and understanding how consumers make purchase decisions helped the researcher to know when and where the consumer's law applies (as in the case of Linda). Literature reviewed also indicated that a framework of a well-functioning market should have sellers who must act fairly, be competitive and be honest; and consumers must be as empowered as the government provide adequate protection. Finally, reviewed literature has also shown that South African consumers are fully protected just like those in developed countries where Consumer Laws were first implemented in the 1960s.

6.4.3 Summary based on Compliance Measures

The main objective of chapter 3 was to suggest or find out the 'Proposed Compliance Measures' adopted or implemented by the retail companies while complying with the CPA. The chapter aimed to establish the compliance measures which would serve as evidence of whether retail companies were complying with the CPA or not. The information obtained in this chapter as well as the findings obtained in chapter five has revealed that most of the retailers were using 'Proposed Compliance Measures' as one of the effective compliance measures implemented. A risk-based compliance approach was introduced to ensure that businesses undertake steps to identify and assess non-compliance risks and then apply appropriate compliance measures.

6.4.4 Brief summary on the methodology

This chapter aimed to illustrate a step-by-step presentation in which the research was carried out. Both quantitative and qualitative were used as methodologies for the study. Under the survey method, the researcher employed a structured questionnaire and interview to collect primary data from the participants. Out of 28 (as a target population), only 20 participants represented the sample size for the study. Stratified random and purposive sampling were the techniques used to select the sample size. The target population and the study area were located in the North Coast of Kwazulu Natal.

6.4.5 Summary based on major findings (chapter 5)

To attain the aim of the study, major findings in chapter five have typically revealed that Retail Companies are complying with the CPA, and they have compliance measures in place such as those mentioned in chapter 3 and tested in chapter 5. In brief, major findings have revealed the following: retail companies adopted consumer instruments which were effectively functioning after implementation of the CPA; retail companies had consumer policies before implementation of the CPA however, they were not effectively functioning; retail companies had very few opportunities and challenges while complying with the CPA. Overall, it is not unreasonable to conclude that the implementation of the CPA does not have a negative influence or effect on retail companies unless a particular company does not comply with the terms and conditions of the CPA.

6.5 Limitations

Only managers and supervisors were chosen as research participants, subordinates were excluded. Questionnaires and interviews were the only survey instruments used to collect primary data from the participants. The North Coast of Kwazulu Natal was the only area for conducting this research project. Unavailability of other retail companies in certain areas made the researcher collect data from Empangeni and Richards-Bay only. Limited time and financial constraints meant that the study could not include all retail companies in the province, as a result, only five were chosen.

6.6 Recommendations

The findings have revealed that retail companies have taken initiatives to educate consumers; it is an appeal to other Organizations also to take part or responsibility in educating and protecting disadvantaged, vulnerable consumers and all the consumers at large. This study has only investigated how retail companies are complying with the Consumer Protection Act, it has not made a thorough investigation of how consumers are protected since the implementation of the CPA, therefore, it will be of great achievement if further research can be conducted under this issue. The focus was only based on companies operating in the retail industry, as a result, is it not known whether other companies in South Africa are fully complying with the CPA or not. Therefore, further research could usefully be done in these domains. Finally, future research work should be focused on exploring appropriate compliance measures that would apply to all types of businesses, particularly, in South Africa where the CPA is still new.

APPENDICES

Appendix 1

INVITATION LETTER TO THE PARTICIPANTS

University of Zululand
Faculty of Commerce Administration and Law

Information about the research

A Research Project for the award of M.Com Degree

Dear participant,

The project is about "compliance with the Consumer Protection Act in South Africa: a case study of Retail Companies in Kwazulu Natal".

Supervisor: Prof Terry Contogiannis (University of Zululand) (Contact Details, Phone: 035 902 6381; E-mail: econtogi@pan.uzulu.ac.za)

Researcher: Nathan Boston Chirwa (Contact Details, Cell: 082 0865547; Email: nathanchirwa@gmail.com)

You are kindly informed to participate in this study of 'how do retail companies comply with the Consumer Protection Act. In other words, the main aim is: what compliance measures have been put in place while complying with the CPA?

As indicated above, this study is for the award of Master's Degree in Business Management from the faculty of Commerce, Administration and Law.

This research project will only involve Managers and Supervisors of the Retail Companies. Therefore, your participation is highly appreciated as the research assumed to to uncover difficult situations regarding the compliance risks and application of the Act and thereof, proposing ways of responding to such matters; and to ensure that all Retail Organizations are taking part in protecting consumers.

The participant should understand that his/her participation is voluntary, and that you may, at any stage without prejudice, withdraw your consent and participation in the study. Your personal details, business profiles and place of work will be kept strictly confidential; i.e. information provided will not be available to anyone else, except the researcher and research committee.

The questionnaire will take not more that 15 to 20 minutes of your time. The questionnaire will be collected at the same time, soon before my departure. Should you need further information regarding other issues within the scope of this study, do not hastate to use the contact details reflected above.

Sincerely,

Nathan B. Chirwa.

My participants are allowed to possess and keep a copy of this page.

University of Zululand
Faculty of Commerce Administration and Law

PARTICIPANT CONSENT FORM

A Research Project for the award of M.Com Degree

The topic is about "compliance with the Consumer Protection Act in South Africa: a case study of Retail Companies in Kwazulu Natal".

Supervisor: Prof Terry Contogiannis (University of Zululand) (Contact Details, Phone: 035 902 6381; E-mail: econtogi@pan.uzulu.ac.za)

Researcher: Nathan Boston Chirwa (Contact Details, Cell: 082 0865547; Email: nathanchirwa@gmail.com)

Consent

I____

(Full names of the participant) hereby confirm and declare that I was fully informed about the purpose, methods, my role in the study, and what risks if any, were involved. The researcher also established a clear and fair "agree"ment for clarification of my obligations and responsibilities; thereof, I "agree" to participate in this study.

This letter is special for ethical review only; it does not stand as a questionnaire for collecting primary data from the participant.

____

(Signature of the participant)

Appendix 2

A Questionnaire for the participants

Dear participant,

I kindly ask for your help in my studies towards Master's Degree in Business Management at University of Zululand. This questionnaire is designed to study "compliance with the Consumer Protection Act in South Africa: a case study of Retail Companies in Kwazulu Natal". Briefly, I am interested in knowing how the retail companies are complying with the new Act. As mentioned in an invitation letter, your personal details, business profiles and place of work will be kept strictly confidentially, only researcher and the research committee will have access to the information. The researcher will rely and depend wholeheartedly on the information provided, therefore, I request to respond to the questions frankly and honestly.

Participant Name: ______________________Organisation________________________

Place___________________Date_________________Signature_________________________

Researcher's Name: Nathan B. Chirwa

Supervisor: Prof, E. Contogiannis (University of Zululand)

E-mail-Address: econtogi@pan.uzulu.ac.za

Phone: 035 902 6381

For more information, you can also contact the Unizulu Research Committee at 0359026425.

The following two questions concerns about challenges and opportunities associated with the compliance of the Consumer Protection Act.

1. What are the likely challenges the company face while complying with the CPA?

1.____

2. ____

3. ____

4. ____

5. ____

4. What are the likely opportunities the company face while complying with the CPA?

1.____

2. ____

3. ____

4. ____

5. ____

The following questions required the participant to indicate as to what extents do you "agree" or "disagree" with the questions below. Note that, 1="strongly agree"; 2="agree"; 3="neutral"; 4="disagree"; and 5="strongly disagree".

Number of Questions	**Strongly agree**	**Agree**	**Neural**	**Disagree**	**Strongly disagree**
1. The company did not have its own CP before the implementation of the CPA.	1	2	3	4	5
2. The company's established policies (if any) before the CPA were not functioning.	1	2	3	4	5
3. There are new rules that have been adopted by the company after the implementation of the CPA.	1	2	3	4	5
4. These new adopted rules are not effectively functioning.	1	2	3	4	5
5. The Company established a programme that aims to educate consumers.	1	2	3	4	5
6. The Company does not have emergency funds to cover small claims.	1	2	3	4	5
7. The Company did not purchase insurance policy to cover large claims.	1	2	3	4	5
8. Each branch of the Company has special customer consultant who deals with customer complaints.	1	2	3	4	5
9. Quality Control/Assurance is not one of the focuses for the Company.	1	2	3	4	5
10. There are few employees sent for the CPA training.	1	2	3	4	5
11. I, the Manager/Supervisor have not yet attended the CPA training.	1	2	3	4	5
12. Replacement, repairs, compensation are all allowed as stipulated in the CPA.	1	2	3	4	5

Appendix 3

A table of summary of the highest responses obtained (from the participants)

Number of Questions (question per participant)	Major responses (Highest results)	Results in Percent (%)	The extent to agree or disagree
1. The company did not have its own CP before the implementation of the CPA.	11	55	Strongly disagree
2. The company established policies (if any) before the CPA were not functioning.	9	45	Agree
3. There are new rules that have been adopted by the company after the implementation of the CPA.	14	70	Agree
4. These new adopted rules are not effectively functioning.	13	65	Strongly disagree
5. The Company established a programme that aims to educate consumers.	13	65	Strongly agree
6. The Company does not have emergency funds to cover small claims.	17	85	Strongly disagree
7. The Company did not purchase insurance policy to cover large claims.	16	80	Strongly disagree
8. Each branch of the Company has special customer consultant who deals with customer complaints.	18	90	Strongly agree
9. Quality Control/Assurance is not one of the focuses for the Company.	16	80	Strongly disagree
10. There are few employees sent for the CPA training.	17	85	Strongly disagree
11. I, the Manager/Supervisor have not yet attended the CPA training.	13	65	Strongly disagree
12. Replacement, repairs, compensation are all allowed as stipulated in the CPA.	16	80	Strongly agree

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