

<https://doi.org/10.59298/RIJRE/2024/411621>

Examining the Efficacy of the Law of Sale of Goods and Supply of Services Act 2017 in the Lens of Consumer Protection in Uganda

Muhwezi Albert

School of Law, Kampala International University, Uganda

ABSTRACT

This study investigates the effectiveness of the Sale of Goods and Supply of Services Act 2017 on consumer protection by examining the legal framework governing it at the national and international levels. Findings reveal that Uganda's consumer protection law falls short and even the available laws do not protect consumers extensively. This Act also does not cater for any redress system for consumer disputes, rights, and remedies of a consumer, and it is upon such a critical analysis that one can conclude that there is an urgent need to protect consumers in Uganda, mainly by setting up a redress system for consumer dispute resolution. More legislation should be enacted and passed, and consumer rights should be enforced since they are intrinsic to any democratic state, and this will lead to economic development. In light of the observations, the article recommends that the government of Uganda amend the law to include the e-commerce provisions that protect consumers on digitally procured products, both intangible and tangible, which give clear and full protection to consumers against fault-sold digital content products. More so, the government of Uganda should amend the Sale of Goods and Supply of Services Act to clearly define "goods" to also expressly cover digital products and clearly stipulate the mode of digital transactions since such goods are different from ordinary goods that the consumer is able to examine before purchasing them.

Keywords: Sale of Goods and Supply of Services, and consumer protection

INTRODUCTION

The term "consumer" originates from the Latin word "consumere," meaning to fully absorb or consume or to eat [1]. Therefore, a consumer is someone who consumes or uses any commodity or service that is available to him, whether from natural resources or through a market. It is for this reason that a consumer should be protected [2]. Consumer protection encompasses safeguarding a consumer not only from fraudulent and dishonest commercial transactions, but also from unfair bargains. Sale of Goods and Supply of Services Act 2017 [44] define a consumer as an individual who purchases goods and services for their own use or ownership, rather than for resale or production purposes. Act 2017 [42017 [4], a consumer is defined as a person who purchases goods and services for final use or ownership rather than for resale or use in production.

The lack of a comprehensive consumer protection law in Uganda has caused uncertainty in efforts to safeguard and advance consumer rights. Nevertheless, the government is actively addressing this issue by designing and enforcing consumer policies that guarantee these rights in all situations, irrespective of the prevailing social progress [5]. Different flag posts that highlight aspects of consumer protection provide evidence of this, including aspects of consumer protection. The Sale of Goods and Supply of Services Act 2017 provides for basic principles of general contract law and focuses on transactions involving the sale of goods and supply of services. It also addresses the unequal status among parties to a contract by enacting exceptions to the general Contract Act 2010: This Act codified all the common law and doctrines of equity in contract law, such as the basic requirements of a valid contract, e.g., capacity, offer, acceptance (consensus ad idem), remedies for breach of contract, an indicator of a new legal regime of consumer protection, and many other legislations [66]. Remedies for breach of contract, an

<https://rijournals.com/research-in-education/>

indicator of a new legal regime of consumer protection, and many other legislations [6]. The United Nations guidelines on consumer protection, specifically Part IV, provide international protection for consumers. The General Assembly first adopted these guidelines in Resolution 39/248 of April 16, 1999, the Economic and Social Council later expanded them in Resolution 1999/7 of July 26, 1999, and the General Assembly revised and adopted them in Resolution 70/186 of December 22, 2015. These guidelines are a valuable set of principles that set out the main characteristics of effective consumer protection legislation, enforcement institutions, and redress systems [7]. Furthermore, the guidelines assist interested states in formulating and enforcing domestic and regional laws, rules, and regulations that are suitable to their economic, social, and environmental circumstances; they also help to promote international enforcement cooperation among member states and despite the availability of all these avenues, global consumer protection remains inadequate. Therefore, the researcher asserts that consumer protection remains a desire, not just in Uganda but globally, and it is a sound business strategy to safeguard consumers. It is good business practice for consumers to be protected. In Uganda, the body responsible for observing consumer protection is the Uganda National Bureau of Standards [UNBS]. An Act of Parliament of Uganda established this government agency in 1989. The UNBS is responsible for the formulation, promotion, and enforcement of standards for the protection of consumers and is also charged with monitoring the standards of goods and services produced in Uganda in order to protect consumers from consuming harmful products. Regrettably, Uganda's established consumer protection legislation is fragmented, resulting in violations of consumer rights due to its limited scope. Despite the enactment of the Sale of Goods and Supply of Services Act 2017, which aims to oversee and observe consumer protection, Uganda continues to violate consumer rights. This necessitated the present study, which examines the efficacy of the Sale of Goods and Supply of Services Act 2017 on consumer protection in Uganda.

The rights of consumers

The right to safety

A consumer has a right to demand safe goods. He has the right to safeguard himself from hazardous, unsafe, and substandard goods [4]. The right entails that a manufacturer must ensure that their products are safe for use by the ultimate consumer. A manufacturer of goods therefore owes a duty of care to ensure that the goods are safe and free from harmful defects [8]. Damages awarded to a consumer who suffered harm due to the manufacturer's negligence recognise the consumer's right to safety.

The right to be informed

Every consumer has the right to complete information on the pricing, quality, and ingredients of goods, products, and services, as well as the identity of manufacturers or producers. Consumers have the right to disclose information about products, storage, transportation, use, or release of hazardous substances [9].

The right to be heard

Consumers possess the right to participate in discussions about issues, policies, plans, programs, and decisions that impact them. This right entitles consumers to redress grievances concerning substandard, unsafe, unduly expensive goods and services, unfair claims not substantiated by the test, and other unfair practices against them [10].

The right to choose

Consumers have the right to choose from a variety of quality goods and services available at competitive prices. Where a monopoly is the supplier or provider, consumers have the right to quality goods and services at a reasonable price. However, consumers can only exercise this right once they secure their freedom to receive or influence information or ideas about the goods and services available in the market [11].

The right to consumer education

The term consumer education refers to the process of exposing people to knowledge about their rights and duties, as well as the skills needed by individuals, groups, and institutions to be able to prioritize their needs, minimize waste, maximize opportunities for purchasing, and use goods and services [12]. Consumer education is also about enabling citizens to adapt to their personal environment, economic, social, and technological changes, make rational decisions, and act efficiently in the marketplace [13].

Education is the most valuable asset any consumer can have. This is because an educated consumer is a sure bulwark against the phenomenon of consumer evil. The public must receive proper education about the dangers and health risks associated with consuming or using products that make false claims. We should educate consumers about the existing regulatory and protection agencies in the country. Education engenders awareness and enlightenment. If you believe that one of these rights has been violated and you have been harmed as a result of the negligence of manufacturers, you may bring a cause of action for harm caused by a violation of your consumer rights [9].

Who is responsible for consumer protection?

Both public and private bodies are responsible for consumer protection, a role that specific laws may confer or that they may assume by virtue of their status. The following bodies are involved in consumer protection.

Government agencies

These may be ministries or consumer affairs departments created specifically to administer and enforce consumer protection laws. There are also consumer advisory councils or committees, which have broad-based representation and serve as a consultative mechanism to advise the government on consumer protection policies.

Statutory and non-statutory standards bodies

We have established both government and non-government bodies to set standards for product safety and quality control, as well as to issue certification marks. Most countries have national standards bodies with autonomous status, usually affiliated with the International Organisation for Standardisation (ISO), which negotiates standards between representatives of industry and other stakeholders, including consumers. National standards often transpose international standards, whose importance has been increasing since their recognition in the 1995 treaty establishing the World Trade Organisation (WTO).

Ombudsmen

Initially developed in Scandinavia to address maladministration in public services, the ombudsman, also known as El Defensor del Pueblo in Ibero America, provides the public with information and advice on consumer rights and aids in the settlement of disputes through mediation and arbitration. Ombudsmen have also spread to the private sector and may sometimes have a generic consumer protection remit in a given locality [14].

Professional and industry association

Professional and industry associations have the authority to handle complaints, initiate disciplinary proceedings against their members, and develop codes of conduct, often in collaboration with consumer protection agencies. Disgruntled consumers can refer their issues to these mechanisms for resolution.

Consumer associations

A well-organised and widely representative group of individual consumers can become a strong force. Many consumer protection regimes now recognize the independent consumer movement as a legitimate representative of consumer interests, and call on consumer representatives to sit in government-recognized committees to express their views. Consumer associations are gaining legal standing in more and more jurisdictions to represent consumers in legal cases. They also provide consumers with independent and objective product and service advice based on tests and surveys they have conducted.

Legal framework on consumer protection

The Sale of Goods and Supply of Services Act, 2017

The Act provides for basis of general contract law and focuses on transactions involving the sale of goods and supply of services. The Act addresses the unequal status among parties to a contract by enacting an exception to the general rule of freedom of contract [4]. Under the doctrine of caveat emptor [buyer be aware], it cautions consumers to rely on their own resources and devices when contracting. For instance, the provision stipulates that in a contract for the sale of goods, the consumer is required to describe the nature of the goods they intend to purchase. Once described, there is an implied condition that the goods must match the description. This provision applies to both sales to consumers and sales to non-consumers [4].

The Contract Act, 2010

The Contract Act 2010 codified almost all the common law and doctrines of equity principles in contract law. This means there is a current new legal regime for consumer protection under Uganda's general law of contracts. Under the Act, a contract is defined as an agreement with the free consent of parties with capacity to contract, for a lawful consideration and with a lawful object, with the intention to be legally bound. Since the contract is legally binding on the parties, in case of any breach, the aggrieved party is entitled to some remedies [6].

The Weights and Measures Act, Cap.103

This Act's primary function is to provide for and regulate the use of weighing and measuring equipment. The Act aims to guarantee that consumers receive the correct amount of goods, and to accomplish this, it establishes guidelines for determining the suitability of weighing or measuring equipment for trade [15]. Act also makes it an offence to sell or expose underweight goods for sale. For instance, the Act mandates that anyone utilizing weighing and measuring equipment for commerce to ascertain the quantity of goods in the presence of a buyer must arrange the equipment appropriately and carry out the weighing or measuring process in a manner that allows the buyer or seller a clear and unhindered view of the equipment and all quantity indications. Any violation or non-compliance with this section results in an offence, serving as a testament to Uganda's commitment to consumer protection. The Uganda Law Reform Commission has identified a general weakness in the use of weights and measures.

The Measures Act, as amended, places heavy reliance on penal sanctions to enforce compliance. Moreover, the offences created throughout the Act attract very paltry fines ranging between five hundred shillings and two hundred thousand shillings. These fines have been revised upwards. When a trader uses false equipment to bring underweight goods, a consumer doesn't want to see the trader go to jail; all they want is to receive compensation or the correct quantity of goods they paid for [16].

The Uganda National Bureau of Standards Act, Cap.327

This Act establishes the UNBS. The functions of the UNBS are to formulate, determine, modify, endorse, and enforce standards for commodities and codes of practice [17]. Other functions of the UNBS that are specific to consumer protection include enforcing standards for protecting the public against harmful ingredients, dangerous components, and shoddy materials. Section 3 of the Act states, among other things, that the bureau is responsible for promoting standardisation in commerce, industry health, safety, and social welfare, as well as formulating national standard specifications for commodities and codes of practice as may be required [17].

Foods and Drugs Act, Cap. 278

This Act makes provisions for preventing food and drug adulteration. The Act prohibits the sale of food or drugs that are harmful to human health. Any person found selling adulterated food and drugs commits an offence and is liable on conviction to a fine of \$2,000 or imprisonment not exceeding three months. Under the Act, it is an offence for any person to display food with a label that falsely describes the food or is calculated to mislead as to its nature for purposes of consumer protection [18].

The Uganda Communications Act, 2013

The Communications Act is a consolidating act that brought together the Uganda Communications Act, the Electronic Media Act, and to dissolve Uganda Communications and the Broadcasting Council and reconstitute a single regulatory body, the Uganda Communications Commission [UCC]. The Act therefore provides for the Commission's power and function, such as licensing telecommunication service providers and radio and television stations [19].

The Act establishes ethical broadcasting standards to safeguard consumers against immoral broadcasts, such as the suspension of ABSTV for broadcasting pictures of naked people [19].

Other nation approaches on consumer protection

The Financial Consumer Protection Guidelines (FCPGs)

The Bank of Uganda issued these guidelines in June 2011. The main role was to supervise financial institutions, commercial banks, credit institutions, and microfinance deposits. The main objectives were:

1. The aim is to promote fair and equitable financial service practices by setting minimum standards for financial services provided to consumers [20].
2. Increase transparency in order to inform and empower consumers of financial services [20].
3. We aim to cultivate trust in the financial service industry [20].
4. The aim is to establish efficient and effective methods for managing consumer grievances concerning the delivery of financial products and services [20].

Following the issuing of the guideline, the Bank of Uganda, in partnership with consumer organisations, has embarked on a three-pronged approach to achieve these objectives: raising the awareness of consumers, strengthening the Bank of Uganda's supervisory techniques to ensure there is a clear understanding of what is required under the FCPGs.

Uganda Consumer Protection Association (UCPA)

In 1993 [21], the UCPA came into existence. It is a non-governmental organization duly registered with the NGO Board and the Ministry of Internal Affairs. It has over 200 individual members and two institutional members. By influencing business practices and regulatory activities, the association advocates for policies that enable consumers to exercise their rights. Its main activities are food and nutrition rights, fair trade in goods and services, and effective regulatory conduct. In the next three years, UCPA will focus on food nutrition campaigns and consumer rights to access clean water, as well as lobbying for the enactment of consumer protection laws [21].

Financial Services Consumer Relations Hub

The UCPA established this hub with the primary goal of acting as an independent clearinghouse for consumer complaints about financial services in general and microfinance in particular [22].

Uganda National Health Consumer's Organisation (UNHCO)

Established in 1999, this nonprofit organization in Uganda aims to promote the realization of the right to health for all Ugandans by fully integrating and implementing a consumer rights-based approach in the country's health sector through active citizens.

International approaches on consumer protection
The United Nations Guidelines for Consumer Protection 2016

This refers to a set of principles that set out the main characteristics of effective consumer protection legislation, enforcement institutions, and redress systems. Furthermore, the guidelines assist interested member states in formulating and enforcing domestic and regional laws, rules, and regulations that are suitable to their economic, social, and environmental circumstances; they also help to promote international enforcement cooperation among member states and encourage the sharing of experience in consumer protection [23].

The Economic and Social Council expanded the Guidelines in Resolution 1999/7 of July 26, 1999, and the General Assembly revised and adopted them in Resolution 70/186 of December 22, 2015. The United Nations Conference on Trade and Development promotes the Guidelines and encourages interested member states to create awareness of the many ways in which member states, businesses, and civil society can promote consumer protection in the provision of public and private goods and services [23].

CONCLUSION

The findings indicate that Uganda's consumer protection laws are inadequate, and the existing laws do not provide comprehensive protection for consumers. This Act fails to establish a redress system for consumer disputes, rights, and remedies. A critical analysis reveals the pressing need to safeguard consumers in Uganda, primarily through the establishment of a redress system for consumer dispute resolution. Enforcing consumer rights, which are fundamental to any democratic state, will foster economic growth.

RECOMMENDATIONS

Based on the observations, the article proposes the following recommendations:

1. The government of Uganda should amend the law to include the e-commerce provisions that protect consumers against digitally procured products, both those purchased through intangible and tangible mediums, which give clear and full protection to consumers against fault-sold digital content.
2. The Ugandan government should amend the Sale of Goods and Supply of Services Act to explicitly define "goods" to include digital products, and to clearly specify the mode of digital transactions, given that these goods differ from ordinary goods that consumers can inspect before purchasing.
3. The government should amend the law to clearly specify the rights and remedies of a consumer, as the Act remains silent on these rights and remedies.
4. The Ugandan government should amend the law to include dispute resolution mechanisms between sellers and consumers, such as a tribunal and a commission, as this will aid in resolving disputes.
5. Since there is a conflict of interest in laws that aim to protect consumers, the government should enact an independent law on consumer protection. This will allow consumers to advocate for their rights.
6. We should form more consumer organizations to advocate for consumer rights through awareness and sensitization.
7. Communities should introduce consumer summaries to raise awareness and inform them about their rights and how to seek recourse. Boost the promotion of consumer protection organizations to let consumers know where to turn when businesses violate their rights.
8. We should form more consumer organizations to promote consumer rights by raising consumer awareness and sensitization.
9. Consumer seminars should be introduced in communities these seminars should aim at informing consumers on how to get recourse in case of any infringement on consumer.
10. Consumer protection agencies should increase their advertising to guide consumers on what to do and where to go when businesses violate their rights.
11. Lastly, I want to emphasize that the Sale of Goods and Supply of Services Act, along with other domestic laws aimed at safeguarding consumers, only provides a limited range of rights. These laws alone are ineffective without well-informed legislation that raises consumer awareness.

REFERENCES

1. Lal, B.S.: Introduction to Consumer Rights and Responsibilities. Presented at the January 1 (2016)
2. Gardner, T.A., Benzie, M., Börner, J., Dawkins, E., Fick, S., Garrett, R., Godar, J., Grimard, A., Lake, S., Larsen, R.K., Mardas, N., McDermott, C.L., Meyfroidt, P., Osbeck, M., Persson, M., Sembres, T., Suavet, C., Strassburg, B., Trevisan, A., West, C., Wolvekamp, P.: Transparency and sustainability in global commodity supply chains. *World Development*. 121, 163–177 (2019). <https://doi.org/10.1016/j.worlddev.2018.05.025>
3. Consumer Protection Bill in the offing, <https://www.parliament.go.ug/news/6263/consumer-protection-bill-offing>
4. Sale of Goods and Supply of Services Act, 2017. | FAOLEX, <https://www.fao.org/faolex/results/details/en/c/LEX-FAOC185393/>

5. International Law and Consumer Protection: The history of consumer protection, <https://www.nyulawglobal.org/globalex>
6. Contracts Act, 2010. (2010)
7. Benöhr, I.: The Evolution of Consumer Protection and Human Rights. In: Benöhr, I. (ed.) EU Consumer Law and Human Rights. p. 0. Oxford University Press (2013)
8. Terry: Consumer Rights and Product Liability-What Rights Have Consumers for Defective Products? <https://businessandlegal.ie/product-liability-consumer-rights-and-product-liability>, (2010)
9. Shukla, A.: consumer rights and responsibilities. (2016)
10. Local Government Center | Montana State University, https://www.montana.edu/extension/localgov/resourcesandhandouts/referencedocuments/municipalofficialshandbook/mmoh_chapter3.html
11. Stucke: M. E.: Is competition always good? | Journal of Antitrust Enforcement | Oxford Academic, <https://academic.oup.com/antitrust/article/1/1/162/274807>
12. Achola, G., Asamoah-Manu, N., Drici Tani, Y., Weiss, A.: Consumer education can lead to behaviour change. Field Actions Science Reports. The journal of field actions. 96–103 (2020)
13. Bashir, S., Khan, A., Khan, F.: THE ROLE OF CONSUMER EDUCATION IN STRENGTHENING CONSUMER PROTECTION LAWS. Pakistan Journal of Social Research. 05, 85–92 (2023). <https://doi.org/10.52567/pjsr.v5i02.1170>
14. Carmona, C.G., Waseem, M., Ranjani, A., Jha, R., II, J., Lo, C., Li, H., Liu, N., Yee, W.-H., Marin, A., Jones, G.: Strengthening the Asian Ombudsman Association and the Ombudsman Institutions of Asia. (2011)
15. Weights and Measures Act. (2000)
16. Home, <https://www.ulrc.go.ug/>
17. Parliament of Uganda: Bill Tracker, https://bills.parliament.ug/user_bill_stage.php?billid=182
18. Food and Drugs Act 1959 (Cap. 278). | FAOLEX, <https://www.fao.org/faolex/results/details/en/c/LEX-FAOC096144/>
19. Uganda Communications Act, 2013. (2013)
20. Financial Consumer Protection Guidelines – UMRA | Uganda Microfinance Regulatory Authority, <https://umra.go.ug/financial-consumer-protection-guidelines/>
21. WCA Worldwide Consumers' Association | Uganda Consumers Protection Association (UCPA), <https://wca.org.my/about-us/our-services/international-consumer-association-info/uganda-consumers-protection-association-ucpa/>
22. An Ecosystem Approach to Consumer Protection: What, Why and How? | CGAP, <https://www.cgap.org/topics/collections/consumer-protection>
23. United Nations guidelines for consumer protection | UNCTAD, <https://unctad.org/topic/competition-and-consumer-protection/un-guidelines-for-consumer-protection>

CITE AS: Muhwezi Albert. (2024). Examining the Efficacy of the Law of Sale of Goods and Supply of Services Act 2017 in the Lens of Consumer Protection in Uganda. RESEARCH INVENTION JOURNAL OF RESEARCH IN EDUCATION 4(1):16-21. <https://doi.org/10.59298/RIJRE/2024/411621>