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Consumer Rights and Responsibilities

GOALS

- Describe your rights as provided by major consumer protection laws, and list sources of consumer assistance if you have a complaint.
- Describe common deceptive practices that defraud consumers.
- Discuss your responsibilities as a consumer to protect yourself from consumer fraud.

KEY TERMS

- time-shifting, p. 102
- space-shifting, p. 102
- warning label, p. 103
- deception, p. 106
- bait and switch, p. 106
- low-balling, p. 106
- pyramid scheme, p. 106
- Ponzi scheme, p. 107
- pigeon drop, p. 107
- infomercial, p. 108

What Are Consumer Rights?

For many years, the consumer's role in the marketplace was known as "buyer beware." Consumers had little protection against unfair practices. Today, that position is changing. As abuses have become apparent, new rights for consumers have been established. By knowing and understanding your consumer rights, you can better protect your purchasing power.

LAWS DEFINING CONSUMER RIGHTS

Many laws have been passed to protect consumers, such as those described below. Other laws are being proposed to help consumers, including one that would create a new federal agency whose sole purpose would be to enforce consumers' rights.

The Consumer Bill of Rights

One of the most important steps toward consumer protection was the Consumer Bill of Rights of 1962. It grants consumers the following rights:

- *right to safety* from unsafe products
- *right to be informed* of the facts necessary to make good choices
- *right to choose* amongst a variety of quality products at competitive prices
- *right to be heard* to ensure consumer interests are represented when laws are being written and enforced
- *right to redress* in the form of compensation for complaints and injuries
- *right to consumer education* in the form of programs and information that will help consumers make better decisions

Airline Passenger Rights

In 1999, it became apparent that airline passengers were being treated unfairly. A new law was passed to guarantee the following:

- *Confirmed reservations.* When you have a confirmed reservation, you will be provided a seat on the flight.
- *Refunds.* When a ticket is cancelled, you will be issued a refund. If the ticket is nonrefundable, you can apply the fare to a future flight.

- *Compensation for hardships.* If delays, cancellations, or “bumps” due to a flight being oversold occur, compensation is required.

Consumer Technology Bill of Rights

As a result of the widespread use of computers, new rights were passed to protect consumers as follows:

- *Time-shifting.* Consumers have the right to time-shift. You are **time-shifting** when you record video or audio for later viewing or listening.
- *Space-shifting.* Consumers have the right to use content in different places. **Space-shifting** allows you to copy the contents of a CD or other media to a portable or other device for personal, not commercial, purposes.
- *Backup copies.* You are allowed to make backup copies of purchased CDs, DVDs, and other media in case they are destroyed.
- *Platform of choice.* You are allowed to listen to music on whatever device you choose. For example, you can use your MP3, iPod, iMax, or Linux.
- *Translation.* You can translate legally acquired content into a format that makes it more usable to you. For example, a blind person can modify an electronic book so it can be read out loud.

Patients' Bill of Rights

Between 1998 and 2001, abuses in managed care and other related medical services led to the following rights:

- *Informed disclosure.* You have the right to receive accurate, easily understood information so you can make informed health care decisions.
- *Choice of providers.* You have the right to choose your own doctor and other health care provider.
- *Access to emergency services.* You have the right to access emergency services when and where the need arises. The health plan insurer must pay for the cost of that service and cannot insist you use a provider on its restricted list.
- *Treatment decisions.* You have the right to participate in all decisions related to your health care.
- *Respect and nondiscrimination.* You have the right to considerate, respectful care from all health care providers.
- *Confidentiality.* You have the right to confidentiality regarding your health care information.

CONSUMER PROTECTION LAWS

Since the 1930s, Congress has passed many laws to protect consumers from unsafe, unfair, and deceptive practices. These laws help ensure that consumers get **quality goods and services for their money.**

Food, Drug, and Cosmetic Act of 1938

The Food, Drug, and Cosmetic Act requires that **foods be safe, pure, and wholesome.** It also requires that **drugs and medical devices be safe and effective** and that **cosmetics be safe for human use.** Truthful labeling is also required. The FDA approves drugs before they can be sold. Approval takes years of research, testing, and proof of effectiveness and safety.

time-shifting recording video or audio for later viewing or listening

space-shifting copying the contents from one form of media to another for personal use

Hazardous Substances Act of 1960

As a result of the Hazardous Substances Act, warning labels must appear on all products that are potentially dangerous to consumers. When product defects are unacceptably dangerous, recalls are required, meaning the product is returned to the manufacturer for refund or repair.

Kefauver-Harris Drug Amendment of 1962

The Kefauver-Harris Drug Amendment strengthened the Food, Drug, and Cosmetic Act by requiring drug manufacturers to test drugs for safety and effectiveness before they are sold to consumers. This law also allows the sale of generic drugs. A *generic drug* is a medication with the same composition as a brand-name drug, but it is much less expensive.



How can consumers be sure the products they buy are safe?

Cigarette Labeling and Advertising Act of 1965

To meet the requirements of the Cigarette Labeling and Advertising Act, warning labels regarding health hazards must be clearly visible on products. A **warning label** contains information advising consumers of product risks and safety issues. Today, warning labels are much more specific about potential dangers and risks than they were in the past.

warning label information on products advising consumers of risks and safety issues

National Traffic and Motor Vehicle Safety Act of 1966

National safety standards for automobiles and for new and used tires were established in the National Traffic and Motor Vehicle Safety Act. Testing and inspections are required to be sure they meet minimum standards for safety.

Care Labeling Rule of 1971

Clothing and fabrics must be labeled permanently with laundering and care instructions as required by the Care Labeling Rule. *Care labels* give instructions for cleaning, wash and dry temperatures, and other care needed to preserve the product. The labels must stay attached and easy to read for the life of the garment.

Nutrition Labeling and Education Act of 1990

The Nutrition Labeling and Education Act states that detailed information is required on all food and drinks. Labels must disclose the amount of nutrients in food, including the amount of calories, fat, salt, and other ingredients. In 1993, the act was extended to restaurants that must comply with health claims on signs and menus.

Family Educational Rights and Privacy Act (FERPA) of 1974

FERPA is a federal law that protects the privacy of student records. Information may not be released without consent of a parent (or the student after age 18). To protect students from identity theft, social security numbers may not be used as student ID numbers.

Health Insurance Portability and Accountability Act (HIPAA) of 1996

HIPAA protects your health and billing information, including information stored on a computer network, by limiting who can have access to it. Consumers are allowed to have a copy of health records, to make corrections, to know how information is being used, and to decide whether or not to give permission to share the information. Social security numbers may not be used for patient identification.

SOURCES OF CONSUMER PROTECTION

When you need assistance with a consumer problem, there are numerous federal, state, and local sources of help. Most of these sources have websites where you can find advice and information and file complaints online.

Federal Agencies

Many federal government agencies provide information of interest to consumers. Some of these agencies handle consumer complaints, and others direct complaints to agencies or sources that address consumer issues.

- *U.S. Department of Agriculture (USDA)*. The USDA inspects food to ensure wholesomeness and truthful labeling. The *USDA Food and Nutrition Service* provides food assistance programs, information on diets and nutrition, and menu preparation. The *Cooperative Extension System* partners with the USDA to provide educational materials in every state.
- *Food and Drug Administration (FDA)*. The FDA enforces laws and prevents or stops the selling of mislabeled foods, drugs, cosmetics, and medical devices. It also provides standards and guidelines for poisonous substances, investigates complaints, researches substances found to be dangerous, and issues warnings to consumers about unsafe products.
- *Consumer Product Safety Commission (CPSC)*. The CPSC protects consumers from risk of injury or death from uses and foreseeable misuses of consumer products. It bans products that are dangerous, arranges recalls, and researches potential hazards.
- *Federal Communications Commission (FCC)*. The FCC regulates interstate and international communications by radio, television, wire, satellite, and cable.
- *Federal Trade Commission (FTC)*. The FTC restricts unfair methods of competition, false or deceptive advertising, inaccurate information on credit reports, and concealment of the true cost of credit. The FTC is also the federal clearinghouse for complaints of identity theft.
- *Federal Aviation Administration (FAA)*. The FAA controls air traffic and certifies aircraft, airports, pilots, and other workers. It writes and enforces air safety regulations.
- *Securities and Exchange Commission (SEC)*. The SEC protects investors and oversees the securities (stocks and bonds) markets. It requires companies to disclose financial and other information so that investors can research investment options. It also investigates the mishandling of investments by securities professionals.

State and Local Assistance

Most states have a consumer protection agency or a state attorney general's office that handles consumer complaints. County and city governments also have consumer protection offices. Many of these have websites where consumer complaints can be filed. Consumer leagues and public-interest research groups are also active at the state and local level. They publish informational newsletters, pamphlets, handbooks, and websites on current consumer issues.

Private Organizations

There are many private organizations that consumers can access when they need to get information or file complaints.

- *The Better Business Bureau (BBB)*. The BBB is a clearinghouse of information about local businesses. Consumers file complaints about businesses, businesses are given the opportunity to respond, and the BBB suggests solutions. Consumers can also view complaints filed against businesses by other consumers.
- *The Major Appliance Consumer Action Panel (MACAP)*. The MACAP is comprised of representatives of the home appliance industry. It provides assistance in resolving consumer complaints in the purchase and use of home appliances. A similar group also exists for the automobile and furniture industries.
- *The National Consumers League (NCL)*. The NCL operates the National Fraud Information Center, established in 1992, to combat fraud against consumers. In 1996, the Internet Fraud Watch was created. You can get information as well as file complaints at the NCL website.
- *Consumers Union (CU)*. The CU is a not-for-profit organization. It has a consumer testing facility to test and evaluate products (including cars) sold to consumers. It publishes a monthly magazine, *Consumer Reports*, which provides test results and product ratings. It also publishes an annual *Buying Guide* that summarizes the year's reports and ratings.

Public Officials

National, state, and locally elected officials are also available to you. You can visit them in person, call them, send an e-mail, or send a letter. Most public officials have websites where constituents can find contact information. Consumer issues are of interest to them, because they represent voters. In some cases, they will investigate and provide direct assistance to consumers. Your voiced concerns may result in new laws and ensure government enforcement of existing ones.



CHECKPOINT ▶▶▶

What consumer protection law has been passed to protect consumers in the area of technology? List two provisions of this law.

deception false or misleading claims made about the quality, price, or purpose of a product

bait and switch an illegal sales technique in which the business advertises a bargain product with the intent of persuading consumers to buy a more expensive product

low-balling advertising a basic service at an unusually low price and then claiming additional repairs or services are needed

pyramid scheme an illegal multilevel marketing gimmick that promises commissions on one's own sales as well as on the sales of recruits

How Are Consumers Defrauded?

The marketplace is full of deceptive and misleading information and unfair practices. **Deception** occurs when false or misleading claims are made about the quality, price, or purpose of a product. In many cases, little can be done once the consumer has been duped into making a purchase. To avoid this, it is important to be aware of unfair practices and schemes.

BAIT AND SWITCH

Bait and switch is an illegal sales technique in which a business advertises a bargain product with the intent of persuading consumers to buy a more expensive product. The “bait” is the bargain that draws you into the store. When you get there, the salesperson will try to “switch” your interest to a more expensive product. The bait is usually poor quality, which becomes obvious once you are in the store. It is advertised to be of better quality than it is, giving consumers the idea that it is a bargain.

FAKE SALES

A common consumer fraud is the *fake sale*. A business advertises a big sale but keeps items at regular price. Often the business will alter the price tags by raising the price and then marking it down to regular price, making you think it's a lower price. Just because an item is marked “on sale” does not mean the price has actually been reduced.

LOW-BALLING

Repair shops sometimes use a practice known as low-balling. **Low-balling** is advertising a basic service at an unusually low price to lure in customers and then telling them that they need additional repairs or services. If the customer refuses the added repairs, the shop then charges extra fees for reassembly. Thus, that “free brake inspection” may not be free at all.

PYRAMID SCHEMES

A **pyramid scheme** is an illegal multilevel marketing gimmick that promises people high commissions on their own sales as well as on the sales of other people they recruit. A cash investment is often required to become a “distributor” of the products being sold. The pyramid consists of those at the top who make money by selling the products to the distributors and earning commissions from every sale made by their recruits. Many in the middle also make money on sales. However, most of the lower-level recruits make little or no money as they try to recover their initial investment by selling the products to their friends and relatives.

PONZI SCHEMES

A **Ponzi scheme** is a fraudulent investment operation in which money collected from new investors is used to pay off earlier investors. Investors give money to an “expert” investor who promises very high returns. The “expert” takes their money and, for awhile, pays high returns from the inflow of cash from new investors. The scheme works well as long as new investments are incoming. It falls apart when the “expert” disappears with the money, new investments slow, investors make withdrawals during downturns in the economy, or auditors discover problems with the financial records of the investment firm. While the “expert” often receives a prison term, the investors suffer financial losses because usually their money cannot be recovered.

Ponzi scheme a fraudulent investment operation in which money collected from new investors is used to pay off earlier investors

PIGEON DROP

A scam in which a con artist convinces a person to give up his or her money in return for a share of a larger sum of money is called a **pigeon drop**. The “pigeon” is an unsuspecting person who has money. Senior citizens are often targeted. One of the most common pigeon drop scams occurs when a con artist approaches a victim claiming to have found a large sum of money and offering to split the money. The con artist sets up a phony meeting to discuss dividing up the money. In the meantime, the con artist asks the victim to put up some of his or her own money to prove that he or she is trustworthy. Later, when the victim arrives at the meeting spot, the con artist is nowhere to be found. In another pigeon drop scam, a con artist convinces victims to use their checking account to assist in the transfer of an international deposit in return for a portion of it. The victims must send a personal check for the amount of the deposit to another recipient until the international check clears. The victims later discover the check is worthless. This scam is commonly originated online.

pigeon drop a scam in which a con artist convinces a person to give up his or her money in return for a share of a larger sum of money

FRAUDULENT REPRESENTATION

~~Telephone or door-to-door solicitations made by people who claim to represent well-known companies or charities are another type of swindle.~~ Consumers may end up buying worthless or unusable products or donating money to a fictitious charity. Before giving money to solicitors, check to verify their identity. Ask them to show official documentation regarding the organization and call to verify that it is real. Investigate charities online through the BBB’s Wise Giving Alliance (www.give.org).

HEALTH AND MEDICAL PRODUCT FRAUDS

A common gimmick involves deceptive advertising for expensive “miracle” pills, creams, or devices to enhance health and beauty. Magazines, newspapers, websites, e-mails, and flashy



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Why should consumers be cautious of door-to-door solicitors?

tabloids often carry these types of advertisements. People often give fake endorsements claiming they were “cured” or lost vast amounts of weight with no effort. The product may be totally ineffective.

INFOMERCIALS

infomercial a lengthy paid TV ad that includes testimonials, demonstrations, and introductory prices

An **infomercial** is a lengthy paid TV ad that includes testimonials, demonstrations, and introductory prices. Fitness and weight loss, hair growth, cosmetics, and kitchen gadgets are common subjects of infomercials. Some of the product claims are genuine, but many do not deliver on the promises made. Infomercials often contain gimmicks such as an initial shipment at a reduced price, but in accepting the offer, you may have signed up for six more shipments or some other hidden commitment.

CHECKPOINT ▶▶▶

How is a Ponzi scheme similar to a pyramid scheme?

How Can Consumers Protect Themselves from Fraud?

Being a responsible consumer means looking out for yourself before you make a bad decision. Prevention is your best protection. To protect yourself, be alert to the warning signs of a scam. Educate yourself on products and prices, and seek remedies when necessary.

IDENTIFY DECEPTIVE PRACTICES

When you hear unrealistic claims, be suspicious. Watch for warning signals in claims or offers made through advertising and by salespeople. Figure 3-4.1 lists common warning signals of possible fraud and deception.

Figure 3-4.1 Warning Signs of Fraud

Watch out when you hear this:

- You can get something for nothing.
- You can buy a high-quality product for an incredibly low price.
- To receive a prize or “free” product or service, you must supply your credit card or checking account number or pay a high shipping fee.
- You will receive a free gift if you act now.
- You or your home has been specially selected.
- You can attend a demonstration with no obligation to buy.
- If you don’t decide right now, you will lose the opportunity.

SHOP SMART

In a market economy, there are many products and services from which to choose. Many products are complex, and the methods used to sell them are misleading. Internet shopping has added new dangers as well. To make good buying decisions, consider these ideas:

- *Be aware of prices.* Know regular or “list” prices of common items. Learn the meaning of “manufacturer’s suggested retail price” (MSRP), which is commonly used in ads. MSRP is the price recommended by the manufacturer. Most stores sell at or below this price.
- *Understand sale terminology.* *Sale* means that goods are offered for sale, but not necessarily at a reduced price. *Clearance sale* means the business wants to clear out the advertised merchandise, but again, it may not be at a reduced price. *Liquidation* means the business wants to sell everything right away, but not necessarily at reduced prices.
- *Compute unit prices.* *Unit pricing* is the cost for one unit of an item sold in packages of more than one unit. The lowest unit price for products of comparable quality is the best buy. Figure 3-4.2 shows how to compute unit prices.
- *Read labels.* Know ingredients and materials and what they mean. For example, a shirt that is 100 percent cotton will probably shrink. A product that is “dry clean only” will be expensive to maintain.
- *Check packages carefully.* Be sure packages have not been opened or damaged. Report suspicious package openings, especially of health-related products.
- *Read contracts.* Read and understand contracts before you sign.
- *Keep receipts and warranties.* For all major purchases, keep receipts and warranties for possible use later. A *warranty* is a statement guaranteeing the quality and performance of a product or service. Print out and keep warranty statements and sales receipts from online purchases as well.
- *Compute total cost.* Check the total cost of an item, including supplementary items (such as batteries), shipping and handling charges, finance charges, and other add-ons.
- *Research businesses.* Check for certifications, licenses, bonding, and other qualifications. Use the BBB and your state licensing divisions to verify qualifications. Research websites before you place an order.

Figure 3-4.2 Computing Unit Prices

The formula for computing unit prices is:

$$\text{Price of the item} \div \text{Number of units per measure}$$

The unit costs of a 15-ounce box of cereal that sells for \$1.89 and a 24-ounce box of cereal that sells for \$2.59 are computed as follows:

$$\$1.89 \div 15 \text{ ounces} = \$0.126 \text{ per ounce}$$

$$\$2.59 \div 24 \text{ ounces} = \$0.108 \text{ per ounce}$$

The 24-ounce container is the better buy, if you will use all 24 ounces.

STAY INFORMED

You are responsible for educating yourself about products and services before you buy. Actively seek information from publications such as *Consumer Reports*. Analyze advertisements and assess your needs. Be wary of emotional appeals that are probably too good to be true. Ask lots of questions, verify, and follow through. To avoid being a victim, visit consumer protection websites often to stay informed of the latest scams. When you discover fraudulent practices, report them to consumer protection agencies to help keep others informed.

SEEK REDRESS

When you have a complaint or need to solve a problem, you have the right to seek *redress*, or a remedy to the problem. Most businesses will work with you to resolve a problem. Using good communication skills can help you resolve complaints quickly. In addition, follow the steps listed below.

1. *Take the product back to the store where you bought it.* Calmly explain the problem in detail and provide evidence. You may need to ask to see the manager. If you bought online, call customer service. Have copies of relevant information to support your position.
2. *Stay firm but not angry.* Say you are dissatisfied and explain why. Ask for the redress you want (refund, replacement, repair, and so forth). Be reasonable.
3. *Put your complaint in writing.* If you are not satisfied with the manager's remedy, put your complaint in writing to the store's headquarters or owner. If you still are not satisfied, write to the manufacturer or distributor of the product and state your complaint. Again, be specific about what you want. Specify a reasonable time period for resolution of the problem.
4. *Send copies of evidence, such as sales receipts, warranties, previous correspondence, and anything else that will support your position.* Keep copies of your correspondence and notes about whom you talked to and what was said along with dates and any actions taken or promised.
5. *File with consumer protection agencies.* If you are still dissatisfied with the result, file a complaint with the appropriate consumer protection agency. There may be more than one agency that can assist you. Provide the agency with a full description and copies of your documentation.
6. *As a last resort, seek legal recourse.* Attorney's fees are expensive, so it is better to resolve the issue yourself if possible. Small claims court or other legal remedies may be a less-expensive choice. Know what you want and be prepared to negotiate and compromise if the remedy offered is fair.



When should you seek legal recourse as a way to resolve a problem?

CHECKPOINT ▶▶▶

How can you detect deceptive selling practices?