



Attorney-General and Minister for Justice, Anti-Corruption, Public Enterprises, Communications, Civil Aviation, Tourism, Industry and Trade

Mr Aiyaz Sayed-Khaiyum

Speech at the World Consumer Rights Day Celebrations

JJ's on the Park
Suva

Monday 14 March 2011
1000 Hours

Chief Justice;
Distinguished guests;
Ladies and gentlemen.

Bula Vinaka and a good morning to you all.

I would like to very briefly, just to set the scene of the speech, highlight a few points in the message that was published in the papers today. The approach that government is taking now is that we need to have a holistic approach. Not just for consumer protection or for businesses to make profit but generally in terms of the legal framework that's been put in place.

But you will find, not just generally with consumer protection itself but with most of the laws in Fiji, it's very piecemeal. Nothing has been really consolidated; there has been no uniformed approach to how particular areas or particular sectors or particular provisions giving protection whether it be landlords and tenants, whether it be the retailer, whether it be a regulation of real estate agents, architects, engineers, accountants, lawyers; they have all in fact been very piecemeal approach and in fact very fragmented at times in most of the sectors.

So our approach is to provide that holistic approach where it is not only user-friendly for the person who perhaps is the complainant but also against who the complaint is made about and I think that provides by having a simply unitary approach to a particular sector, it makes it easier for everybody; it gives

confidence to the system, it gives confidence to the consumer, it gives confidence to the business sector also.

Consumer rights generally and traditionally has been about addressing the power imbalance, between the consumer, who purchases a particular good, and the person supplying the good, which is the retailer. That's a tradition; I go into a shop and I buy a tin fish or whatever it is. Almost invariably, the retailer has more information, has more resources available at their disposal as opposed to the consumer. So similarly, in the modern day context, the retailer is now not just the person selling the tin fish or the clothes or the ginger-beer, but in fact it's also the person selling the financial services.

With the growth of obviously commercialization, consumerism, our dependency on credit, our dependency on insurance for example, our dependency on for example hedging, raising global bonds or whatever it is, the reality is that we all are somehow or the other touched by the financial services sector. So it is therefore imperative that that falls within the domain of consumer protection and also whenever we talk about consumer protection, I think we also need to understand, it's not a one-way street. Yes we are there to address power-imbalance, but that addressing of power imbalance must ensure that all parties are treated in a very transparent and systemic manner. That's imperative for any system to work.

Now as has been highlighted by the CEO, services to consumer in the financial services sector, there are a number of problems that have already been identified; not just in Fiji but also in our neighboring countries in Australia and New Zealand where most of our banks come from and also in USA and various other countries where the terms of contract has perhaps not been fair; fair in the sense it has not been transparent where there is not full disclosure in terms of interest rates.

Somebody will say pay only 1% interest rate; buy this, no deposit, take it away; hire purchase areas. These are all sorts of areas where we found that in terms of the development consumer protection laws as far as the financial services sector is concerned, there used to be numerous problems. And that's why you have seen an expeditious increase in the plethora of laws that have come about in Australia and NZ for example. They themselves have gone through a

consolidation phase where they have had to consolidate in fact state laws was federal laws and various other protective mechanisms that have been put in place subsequently.

As I have mentioned, our approach is that we want to have a holistic protection for consumer rights. Now, what we envisage is that we need to have a mechanism that is transparent but that is also a mechanism where I as a consumer am able to get redress very quickly. Because as I mentioned earlier on, if I am somebody who is going to lodge a complaint about the fact that I have been overcharged \$500 because perhaps the IT system in one of the banks is not working properly or somebody has keyed in the wrong figures, I may actually have to wait for a very long period of time and that \$500 for me, if I am earning \$15000 a year, is a lot of money. So I need redress very very quickly.

So what sort of mechanism do we have in place? And it needs to be obviously affordable. This is what we are contemplating at this stage, where we need all the participants, including the financial service providers, the consumers, the Consumer Council of Fiji, the regulators to be able to come to a forum where these issues and disputes are very expeditiously processed.

What I am getting at is something similar to Small Claims Tribunal. Where you will find in other overseas jurisdictions where they have such mechanisms. India for example has a very good system in place. So up to a particular level of compensation, you can go to the tribunal where we don't have lawyers involved in the process, who may charge fees that may restrict my ability to go and argue my case because I cannot afford to hire a lawyer. And remove the legalism from the process. This is what the Small Claims Tribunal was created for in the first place; for very small claims.

So we are working with the Consumer Council of Fiji, the Commerce Commission, the various parties are putting their head together. There have been quite a bit of consultations throughout the country and we hope to get that in place. But what it also highlights, is that we can have a fantastic set of laws; but it's the ability to implement those laws that is the real issue and we found for example in Fiji some laws have existed for quite a period of time; in fact they are quite good provisions but nobody has been able to utilise it; in

fact nobody knows about it. And even if they do know about it, the way to go about trying to get redress under that particular provision is in fact very very restrictive, it's very cumbersome, it's very bureaucratic. So the idea is to make it very simple. It's simple for the financial provider, its simple for the consumer, and it's simple for the person who is adjudicating over the particular process.

I have seen myself, I have received complaints in my text messages and emails where individual consumers have been in fact sent me complaints or the Consumer Council may have forwarded me complaints and I have in fact directly forwarded it to various banks to the CEOs and said I have received these complaints and lets try and get some form of redress. In some instances we find that it's the consumer who's not necessarily at fault nor is the bank at fault, but there is a lack of communication, the lack of information that should exist between the two parties, the information that should exist, there is a lack of it. I think that is the problem.

So literacy is an essential element in terms of improving financial services or understanding financial services that exists within the community. In the same way as mobile phone companies. They may have various advertisements but you need to read the fine print. So people may actually get a bit agitated and say look, they are saying X-Y-Z, but I am able to make only 20 minutes worth of phone calls.

Similarly, financial service providers, the information that needs to go out, needs to be very very comprehensive, it needs to be in simple language, it needs to be in a form that an average consumer can understand. But it is also the responsibility, I believe, of the consumer to take it upon him/her self to know exactly what they are getting into and that can only come about because there are certain trigger points. If they are saying this, it may mean that. I may not understand that if I am not literate enough in terms of the financial services that are available.

So I think that is very important and as the banks would tell you the Reserve Bank of Fiji has been working with the banks and various other agencies to try and get financial literacy out to the members of the public and I would like to commend the Consumer Council for putting that sort of agenda into the public

forum and also the Reserve Bank for the work that they have done with the banks to be get that service out to the public.

The Banks through some of the banks have set up their microfinance scheme. I have certain reservations about some of the practices as far as some of those microfinance schemes are run but I think there is a lot of room for improvement. But nonetheless, one of the positive aspects that have come out of that is that people are beginning to become banked. More people are becoming more banked in Fiji or are able to access services even through M-Paisa to understand what it is to be part of the financial system sector in Fiji.

So financial literacy, government is placing a lot of emphasis on that to ensure that those people in particular those in the rural or island have access to the sort of technologies that we have available, are able to know what they are doing, are able to know what are the fundamentals of engaging with the financial sector.

Mr Dulare has got a long report for us. I have not seen that report so I would not want to preempt any of the findings of the report. I technically cannot as I have not seen the report but as the CEO has mentioned and this is through anecdotal evidence that we have seen many of the issues that were highlighted back in the late 90's seems to recur, those issues seem to be continuously highlighted and I assume that that will be the findings in this report also.

So my plea to all of you here, as I can see a whole range of stakeholders in this room, is that let's not be antagonistic about the manner in which we deal with this situation. I think we need to take a very collaborative approach and everybody believes I think in this room that if we take collaborative approach, then we will be able to have lot more robustness in the sector, there will be lot more efficiency, lot more transparency and at the end of the day, the reality is the people who actually have problems with the financial sector are those people who are at the lower end of the socio-economic scale, are those people who are the mums and dads who may be taking their first home loan or somebody who may be putting their money into a bank account for the first time or somebody who is on the fringes.

The big group companies can take care of themselves. Generally the complaints will not come from them as they have their lawyers and their accountants to go through the fine print but I think its those people at the lower end of the socio-economic scale who need the redress and in fact, the margin of error at most times on a average scale is very low and I have seen this through my own personal experience at Colonial National Bank. It's a question sometimes of \$1000 or \$2000 or \$500 and the overall scheme for things is not big, but for that individual, it is very big.

So if we are able to have a collaborative approach to try and weed out these sorts of problems that are quite minor, I think that will give lot more confidence and I think I have said previously and I would like to just digress through one of my favorite topics at the moment, the hardware sector. If we all focus on volume, then it does create general robustness not just in the sector but in the economy overall.

So ladies and gentlemen, I am very pleased to see everybody turn out in such huge numbers. I think it's evidence of the fact that people are more concerned about the financial services sector and the fact that consumers do need protection, the business houses want to collaborate in terms of putting this legal framework in place that will work for everybody and Fiji overall.

I wish you all a very good morning.

Vinaka Vakalevu.