

Pacific Conference on Growth and Development

Consumer Protection issues in Market Economies

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I thank Dr Chand for giving me an opportunity to make a contribution to this important conference.

Ladies and Gentleman

1. Emphasis is often placed in the academic debate and government policies about economic development which is on the supply side – encouraging investment, “red tape” stifling investment, tax and tariff policies and incentives, and so on. But markets do not work just because there are suppliers. Effective markets depend on competition, and this in turn requires knowledgeable, demanding consumers, willing and able to make informed choices in accessing products and service.

2. Market economy is clearly a system of choice in today's marketplace which is brought about through competition. Competition increases economic efficiency, and enhances consumer welfare.

3. However, the market economy is also prone to failures where unscrupulous players can undermine the benefits of competition by resorting to anti-competitive practices for short-term gain through collusive behaviour or abuse of dominant position. These practices can completely nullify the benefits of competition.

4. A free market economy, assumes informed, educated consumers with the power to influence the market through their rational decisions when confronted with choice. It is also based on the assumption that there are effective consumer protection legislations and institutions which will tackle anti competitive behaviour. Developed economies are well aware of this and generally have strong consumer movement as well as competition protection institutions.

5. Let me emphasise that consumer movement is not anti-market, anti-business, or anti-liberalisation. But it does say that economic activity must ultimately serve consumers. That's why there are competition and consumer protection laws and that's why governments ensure that consumers are given countervailing power in the market such as, disclosure laws, mandatory product safety and quality standards, and statutory dispute resolution structures.

6. We all accept the fact that the business objective is to make profit and in some cases this is most easily secured by limiting competition and as far as possible exploiting consumers through high prices and/or by supplying sub-standard goods and

services. In 2008 the Council received 1689 complaints worth \$3,005,850.49. About 141 complaints per month.

7. Fiji's market condition is not perfect for competition to thrive. We live in an imperfect market condition. Successive governments have been very quick in introducing market mechanism to change the outlook of the country's economy, but at the same time they have ignored its impact on the people by not putting in place effective consumer protection measures.

8. The current Fiji regulatory landscape for consumer protection is very complex. Most consumer protection laws are outdated and fail to address consumer needs in the current times. For example, Fair Trading Act is one failed piece of legislation currently operating without adequate offences or penalties. There is duplication of provisions in different consumer protection laws managed by different consumer protection agencies which makes the laws mutually contradictory and confusing. Anti-competitive practices such as formation of cartels, price fixing, predatory pricing and price discrimination remain unchecked thus nullifying the benefits of open market economy. Therefore, one of the key challenges for businesses, consumers and government will be to examine our consumer policy framework to ensure it meets the needs of a modern economy. What we need is strong law, vigorous enforcement and educated consumers;

9. It must be recognised that the politics of business in developing countries results in dominant position of the sellers who are more organized and have resources and information at their command. The consumers on the other hand are ill organized, lack resources and relevant information, which results in absence of resistance against sub-standard products and services. In Fiji, Consumer Protection Agencies including Commerce Commission is inadequately resourced and it lacks trained staff to fight powerful enterprises.

10. It is unfortunate that our consumers have to question the effectiveness of our institutions when they hear enforcement agencies take cases to court in other countries for ripping off consumers. A good example is Air New Zealand. They had to pay \$600,000 in fines and nearly \$65,000 in costs after the Commerce Commission of New Zealand prosecuted the airline for misleading customers about the real price of its airfares. In Fiji, Pacific Sun got away with misleading advertisement with a simple apology. Now some major companies openly admit mistakes but believe that it is not an "unfair trade practice". Therefore, the question to ask is how many mistakes has to be made before the mistakes constitute "**unfair trade practices**" or simply, *illegal* under the consumer protection laws of Fiji. In reality **mistakes** *is no defense in law*.

11. It is worth mentioning that proper enforcement of consumer protection rules are not just the responsibility of public authorities. Consumers through their representatives such as Consumer Council or Consumer Association have a crucial role to play as watchdogs, raising the alarm when problems arise in the market. For

consumers associations to be able to carry out their roles in efficient and effective manner, requires recognition and support from the state. A key part of this is financial support because businesses are not short of either funds or expertise, but consumer associations are.

12. There are practical difficulties faced by **consumers in order to access reasonable, quick and cost effective remedy.**

- The consumers can seek the services of SCT if the amount in dispute is \$5,000. If the sum involved is more than \$5000, consumers have no option but to hire a lawyer or to abandon the case if the amount in dispute exceeds lawyer's fee.
- Secondly, the redress mechanism is absent or missing entirely in various industries/sectors/trade. Consumer protection safeguards are lacking because the legislations were written to protect the interest of traders and service providers. For example FEA is protected from power surge that destroys electrical appliances and equipment.
- Thirdly, sector-specific Ombudsman-styled bodies are lacking in Fiji such as the Telecommunications Ombudsman or Financial Ombudsman, which are found in Australia, New Zealand and other countries. So consumers have limited choice for redress.

13. The end result is a vicious cycle of consumer abuse, neglect, and unethical trader practices flourishing in our so-called *free market-place* at the expense of our consumers.

The Way Forward for Fiji

14. Fiji needs a comprehensive legal framework, consolidating all consumer-related laws and enforcement under one umbrella of Consumer Protection Agency (CPA). Recent announcement by the interim government on the merger of 3 CPA is a way forward to create one-stop agency to control all aspects of consumer protection. This decision is commendable.

15. In conjunction to this, Fiji should have a separate Consumer Court to deal with redress and compensation issue as seen in India. As such a consumer will not be at the mercy of the enforcement agencies but will be able to seek redress through the consumer court system.

16. I think I have said enough to show that consumer protection is important in economic terms.

Thank you.