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FEATURE ARTICLE

Conditioned to Lose: Why Conditional Selling is Illegal and How to Protect Yourself?

You walk into a shop to buy a popular new phone. The price is advertised, the product is in stock, and you're ready to pay. However, when you reach the counter, the salesperson tells you there's a catch.

"You can only buy the phone if you also purchase this \$100 screen protector"

Or perhaps you're looking for a specific brand of electronic item, and the retailer insists you must buy two other items you don't need before they'll sell you the one you want.

Welcome to the frustrating and illegal world of conditional selling.

What is Conditional Selling?

Conditional selling, also known as "tying" or "bundling," occurs when a trader makes the sale of one product or service conditional on the consumer purchasing another product or service. In simple terms: "You can only buy this if you also buy that."

This practice takes many forms:

- **Mandatory add-ons** – "You can only buy the phone if you also buy our extended warranty."
- **Product bundling** – "This bread is only available in a package with butter you don't want."
- **Service conditions** – "We'll only provide the installation service if you buy our overpriced cables."
- **Credit tie-ins** – "You can only get this loan if you also take our insurance policy."
- **Exclusive arrangements** – "This apartment is only available if you use our preferred rental agent."

At first glance, this might seem like normal business practice. After all, businesses are free to package products how they wish, aren't they?

Not when it comes to essential goods or consumer choice.

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Why is Conditional Selling Illegal?

In Fiji, conditional selling is prohibited under consumer protection laws because it fundamentally undermines consumer choice and fair competition. Here's why it's considered unlawful:

1. It Removes Your Freedom to Choose

When a trader conditions a sale, they take away your right to decide what products best meet your needs. You may not want or need the product, but you're forced to buy it anyway. This is not a free market, it's coercion.

2. It Creates Unfair Market Advantage

Conditional selling allows dominant traders to push additional products onto consumers, stifling competition from smaller businesses that might offer better value for those same products. The phone case you're forced to buy from the phone shop might be twice the price of the identical case sold elsewhere.

3. It Exploits Consumer Need

When a product is essential or in high demand, conditional selling becomes particularly predatory. The trader knows you want or need the primary product, so they exploit that need to force unwanted purchases. This is especially problematic for:

- Essential food items during shortages;
- Popular products in limited supply;
- Services consumers urgently need; and
- Housing and rental accommodations.

Specific Laws That Prohibit Conditional Selling

The Fijian Competition and Consumer Commission Act 2010 addresses unfair trading practices, including conditional selling. Additionally, sector-specific regulations in areas like banking, telecommunications, and essential services explicitly prohibit tying arrangements that harm consumers.

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The Consumer Council of Fiji has successfully challenged conditional selling in numerous cases, including:

- **Vehicle dealers** forcing customers to purchase financing through their preferred lenders;
- **Hardware stores** requiring purchase of multiple items to access discounted building materials;
- **Mobile phone retailers** refusing to sell handsets without expensive accessory packages or other accessories;
- **Moneylenders** forcing consumers to buy furniture or spend stipulated amount to one fixed retailer in order get quick loans;
- **School essential retailers** demanding consumers to purchase uniforms in order to gain access to school badges; and
- **Food shops** requiring purchase of less popular items to access staple goods

Real Examples from Our Case Files

Case Study 1: The Bread you can't buy Alone.

A consumer visited a bakery intending to purchase bread but was informed by staff that the bread would only be sold on the condition that butter was also purchased. When the consumer questioned this requirement, they were told it was mandatory to buy both items; otherwise, the bread would not be sold to them.

Case Study 2: School Monograms Become a Conditional Trap

A consumer attempting to purchase the official school monogram was informed that the monogram would only be sold if the uniform was purchased from the store. Given that the trader's uniform prices are significantly higher than competitors, this conditional selling practice unfairly restricts consumer choice and forces parents to pay inflated prices.

Case Study 3: The Loan with Strings Attached

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A consumer who applied for a loan from an unlicensed credit institution was informed that the loan would only be approved on the condition that they spend \$100 at a specific named retailer or purchase furniture from the lender's own workshop. The loan provider refused to disburse any funds unless these conditions were met.

This practice places borrowers in an unnecessarily difficult financial position, forcing them to purchase items they may not need or want simply to access credit.

What Consumers Need to Do

If you encounter conditional selling, here's how to protect yourself and assert your rights:

1. Recognise It

Be alert to phrases like:

- "You can only buy this if...";
- "This is part of a package deal—we don't sell it separately.";
- "Everyone who buys this also takes our...";
- "It is company policy to bundle these items."; and

2. Question It

Politely but firmly ask:

- "Is there a genuine reason I cannot buy this item alone?";
- "Is this a company policy, and can I see it in writing?";
- "Who can I speak to about this requirement?"; and
- "Are there any alternatives available?"

Sometimes, simply questioning the practice is enough for the trader to reconsider, especially if they know they are on shaky legal ground.

3. Refuse Unwanted Items

You have the right to decline purchases you do not want. If the trader insists on conditional selling, you are not obliged to accept their terms. Walk away if necessary, and report the matter.

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4. Document Everything

- Take photos of the product and any signs or notices;
- Keep receipts or records of what you were told;
- Note the date, time, and name of the staff member (if possible); and
- Save any advertisements or promotions related to the product.

5. Report It Immediately

Contact the Consumer Council of Fiji on 155 or through email on complaints@consumersfiji.org as soon as possible. The sooner we know about the practice, the sooner we can investigate and take action.

What the Council Can Do

When you report conditional selling, the Council can:

- **Investigate** the trader's practices;
- **Demand explanations** and evidence from the business;
- **Mediate** between you and the trader to resolve your individual case;
- **Issue warnings** to traders found engaging in unlawful practices;
- **Escalate matters** to regulatory authorities for enforcement action;
- **Publicly name and shame** persistent offenders (where appropriate); and
- **Advocate for stronger laws** and clearer consumer protections.

Exceptions to the Rule

It's important to note that not all bundling is illegal. Genuine package deals where:

- Both items are offered together at a genuine discount;
- You have the clear option to purchase items separately; and
- The bundle represents a legitimate commercial offer.

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The key distinction is **choice**. If you can walk away and buy the items separately elsewhere, or if the bundle is clearly optional, it's likely legitimate. If you are forced to accept items to access the product you want, it's likely illegal conditional selling.

Your Voice Matters

Conditional selling thrives in silence. When consumers accept unfair practices without complaint, traders learn that they can get away with it. Your voice, your willingness to question, challenge, and report is the most powerful tool we have in fighting these practices.

Every complaint you lodge helps the Council:

- Build evidence of systemic problems;
- Identify repeat offenders;
- Educate other consumers about their rights; and
- Push for stronger enforcement and better laws.

Know Your Rights, Use Your Voice

You work hard for your money. You deserve to spend it on products and services you actually want and need, not on items forced upon you by traders seeking to maximise profits at your expense. Conditional selling is not just frustrating; it's illegal. It undermines your freedom as a consumer and distorts the fair competition that makes markets work for everyone.

Know your rights. Recognise the practice. Question unfair demands. And when you encounter conditional selling, speak up. Together, we can build a marketplace where your choices are respected, your rights are protected, and your voice is heard.

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