



**CONSUMERS RIGHTS AND CHALLENGES OF THE SOCIO-ECONOMICALLY
DISADVANTAGED AND THE IMPLICATIONS OF THE CONSUMER PROTECTION
ACT 68 OF 2008**

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ABSTRACT

South Africa is a country that is classified as having high levels of poverty and illiteracy. This is evident particularly in the consumer market, which consists of both the ordinary consumers, who are generally literate, and vulnerable consumers, who mostly have low levels of literacy or are illiterate and come from disadvantaged communities. Such vulnerable consumers face challenges when transacting with suppliers.

The need to develop common law principles or any other consumer protection legislation, to protect, not only average consumers, but also vulnerable consumers, was of particular concern. Hence, the Consumer Protection Act (CPA) 68 of 2008 was promulgated, with the aims of promoting a fair, accessible and sustainable marketplace for consumer products and services and to establish national norms and standards relating to consumer protection. However, experience has shown that, since its implementation some of the promises in the Act have not become a reality for many consumers, especially those who face socio-economic disadvantages. Such consumers include those with low income, low levels of education, and those who are illiterate.

This study aims to investigate the consumer challenges and rights of the socio-economically disadvantaged persons as vulnerable consumers, as well as the role of the CPA in protecting them and addressing such consumer challenges. A quantitative research design was adopted together with probability sampling. A questionnaire was the primary tool used to gather data from consumers that reside at Bhekulwandle, a township in the Illovo area, in KwaZulu Natal province.

The findings from the study revealed that, even though consumers are afforded legislative protection in the consumer market, the effectiveness of such legislation has some gaps when viewed from the vulnerable consumer perspective. Consumers facing socio-economic disadvantage are still faced with challenges when it comes to understanding commercial contracts, primarily due to the language used in standard form contracts and their ignorance as to the processes to follow when their rights have been infringed, and their rights as consumers. The government, suppliers and consumer bodies have an onerous responsibility in ensuring that all consumers, especially those from a disadvantaged background, are equally protected in the consumer market. This can be achieved by ensuring that existing legislation is

enforced and business should be compelled to comply and give particular recognition to the vulnerable consumers.

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List of Abbreviations

- CPA - Consumer Protection Act 68 of 2008**
- SED - Socio-economically disadvantaged**
- OECD - Organisation Economic Co-operation and Development**
- US - United States of America**
- UK - United Kingdom**
- GDP - Gross domestic product**
- PPP - Purchasing power parity**
- IMF - International Monetary Fund**
- UNACTAD – United Nations Conference On Trade And Development**
- ILO – International Labour Organisation**

CHAPTER 1

INTRODUCTION AND BACKGROUND TO THE STUDY

1.1 Introduction

Egan (2020: 76), asserted that South Africa has two economies, namely a sophisticated formal economy ruled by big businesses and a separate economy, known as the informal sector, which includes everything from spaza stores to street vendors. A report by the SME South Africa (2022: 1) states that these two economies are interconnected, meaning that the informal sector includes the part of economy that is not taxed or monitored by the government. Further, although a sizeable portion of South Africa's economy is made up of the informal sector, individuals who work in the formal sector are usually much more competent, do not work in the informal sector and have much better financial circumstances.

According to Barnard (2015: 223), global consumerism is a trend that is present even in underdeveloped nations such as South Africa. Although the Consumer Protection Act (CPA) 68 of 2008 is not a brand-new idea, it now provides more thorough measures to protect customers. Low-income, illiterate, young and elderly consumers are considered vulnerable consumers under Section 3 of the CPA. Masojada (2021: 1) is of the view that consumers enjoy a large class of township entrepreneurs operating informal retail outlets that have come to be known as 'spaza stores'. The author adds that they only offer a small assortment of necessities and household goods. Although they are typically more expensive than traditional supermarkets, their location benefits township consumers by saving them money on transportation expenditure.

Generally, consumers are faced with challenges, such as suppliers giving out false information or not selling quality goods as prescribed by the Act (CPA), as well as other challenges in the marketplace that will be discussed in this study. Disadvantaged consumers, also known as socio-economically disadvantaged (SED) consumers, include the low-income and illiterate consumers as described in Section 3 of the CPA. Such consumers are also faced with particular challenges, which are investigated in this study.

This chapter will set out the background, problem statement, aims and objectives, research questions and hypothesis, rational, delimitations, summary of methodology and the structure of the dissertation.

1.2 Background to the study

According to Egan (2020: 76), the most visible characteristic of the South African consumer landscape is debatably inequality. Moreover, the United Nations considers South Africa to be one of the world's most unequal nations. The author adds that it is classified as one of the highest in the world in terms of wealth inequality. South Africa's Gini coefficient is over 0.60.

Stewart and Yap (2020: 343) state that low-literate consumers have been detected to be the ones that are misinterpreting labels, incorrectly using products and buying the wrong items, which leads to overwhelming outcomes as they continue to make poor choices out of illiteracy. Furthermore, there is an overlap of these traits between the consumers in the remote areas and those in townships.

Although the term “vulnerable consumer” includes various categories such as the aged, elderly, poor and illiterate, these categories do not affect the common theme between them, is in that they are all consumers and should enjoy protection that is equally enforced (Fair Trade Commission 2020: 3). In addition, consumers who are earning low incomes are highly unlikely to have access to important and enabling products, which dilutes their power as consumers to negotiate and get the best deals available in the market (Tyrie 2019: 18). The introduction of the Consumer Protection Act 68 of 2008 brought changes to South African law as far as consumer protection is concerned. The Act's preamble elucidates that its aims are to ensure that consumers have a fair and accessible market, as well as to eliminate unfair marketing and business practices (South Africa, Department of Trade and Industry 2009: 2).

Hlophe (2018: 5) iterates that despite the measures in place to protect consumers, a majority of consumers are still vulnerable to abusive business practices in different markets, but these are more evident in the financial market.

Vulnerable consumers regularly experience contractual challenges when dealing with retail stores, particularly because businesses tend to present a take-it or leave-it attitude where contracts are concerned, and consumers have to deal with the challenge of not understanding the terms in a contract (Hlophe 2018: 13). According to Modiba (2015: 5), the “freedom of contract principle” as adopted in South Africa implies that parties have the liberty to choose how they contract without legal restrictions, and that the relationship that results is fully and legally binding. It also emphasizes the obligation to protect not just the average consumer, but also those who are disadvantaged due to the historical imbalances of the country.

One of the theories that underpin this study is the Consumer Justice Theory. “Consumer justice” means doing what is right and just, which can also be applied to the consumer field under different categories such as social justice, distributive justice, economic justice, etc. (McGregor 2017: 3). The focus of this study will be on the Social Justice (SJ) perspective on consumer protection.

McGregor (2017: 6) defines the term “social justice” as when things are equally distributed within a society (e.g. housing, healthcare, and access to marketplaces, etc). The author adds that when Social Justice is evident, people have equal access to liberties, rights, and opportunities, and that the least privileged members, including those who are socio-economically challenged, are taken care of.

Ayala, Wilcox and Hage (2011: 2795) further explain that in terms of the Social Justice theory, everyone in society should have an equal share of power, resources and responsibilities, regardless of race, age or other factors. This explanation by the authors supports the aims of this study, which are to show the need for consumers to be treated equally and fairly by suppliers; enjoy available consumer protection; and not be victims of unfair business practices merely because they are socio-economically disadvantaged, or having any related circumstances that prevent them in making decisions of their own.

1.2.1 Socio-economic disadvantage as grounds for vulnerability

Section 3(1) (b) of the CPA clearly states that vulnerable consumers are those that are identified as low-income persons, living in remote or rural areas and consumers with low literacy levels. The CPA strives for equality to be implemented when dealing with such consumers in relationships with businesses so that they are protected and uplifted, whilst at the same time pursuing social justice, especially in a country such as South Africa where poverty and inequality is a reality (Mupungavanhu 2015: 129). Therefore, Hawthorne (2014: 417) acknowledges that vulnerable consumers are exposed to being exploited in the market due to their socio-economic condition and disadvantaged status.

1.2.2 Contractual challenges faced by vulnerable consumers

Section 3(1)(b) of the Consumer Protection Act defines a 'vulnerable consumer' as persons who are low-income earners; people who live in far-off isolated areas; people who are minors; and people whose ability to grasp is limited due to low literacy. The contractual challenges faced by vulnerable consumers are discussed below:

1.2.2.1 Suppliers not using plain language in drafting contracts

Barnard (2014: 9) outlines that consumers do not read contracts that they are presented with, they just sign. This becomes a challenge for consumers, especially the disadvantaged, due to the difficult language used and the type of format used.

1.2.2.2 Contracts favoring one side in the supplier and consumer relationship

Aniol (2015: 10) states that the doctrine of autonomy assumes that both parties enjoy equal negotiating authority according to the contract law of South Africa. However, through the introduction of standard-form contracts, this right was jeopardized, leaving a greater burden on the consumer. Hence, the CPA was enacted to ensure consumer protection. Palanee (2014: 1) therefore maintains that consumers have little bargaining power to negotiate the terms that go into these contracts and end up being presented with take-it-or leave-it contracts from the supplier, even though it is ultimately the consumer that is significantly affected.

Furthermore, when looking at the country as a whole, it is clear that it is plagued with low literacy levels and poverty which indicates that consumers have little power to negotiate with suppliers.

1.2.2.3 The expensive process of contract overview

Patterson (2010: 346) mentions that it is not that consumers are not aware of the need to carefully review the contract presented to them before signing, but that it is because of the financial burden that they must deal with, as it is very expensive to seek legal opinion rather than signing. They end up hoping that nothing in the contract will be detrimental towards them, and a greater challenge lies with disadvantaged consumers. A national consumer survey conducted before the CPA was introduced showed that consumers who were mainly disadvantaged and from rural communities were unfamiliar with their consumer rights (Booyesen 2011: 11). Hence the need for a follow-up study to ascertain whether these challenges have been addressed.

1.2.2.4 Pre-drafted terms that are not equally negotiated

Patterson (2010: 369) highlights that if each party does not negotiate the terms separately, then this is regarded as unfair. It goes against the principle of *good faith* as it opens the door for the imbalance of rights and duties for the parties dealing with that particular contract. There are many benefits in using a standard-form contract in the business context, such as reduced transaction costs, greater certainty and reduction in agency costs. One of the primary disadvantages of standardized contracts towards consumers is that businesses do not need to negotiate a new contract for every transaction. This puts huge amounts of stress on the consumer because using standard-form contracts for every transaction may not be equally beneficial, particularly from the perspective of a disadvantaged consumer (Patterson 2010: 332).

1.2.2.5 Consumers being excluded from accessing a variety of goods and services

According to Schulte-Nolk, Zoll, Franaszczyk, Stefan, Barmseid and Kubela (2013: 8), businesses have discriminatory marketing strategies that constitute a refusal to sell in certain areas due to the location they are in, which negatively affects the consumer's right to choose because they are offered a different

selection of goods or services than those offered in better areas. The authors elaborate that the vulnerable consumer is left with a burden of having to pay more when physical delivery of the goods takes place. Therefore, such discriminatory practices violate the equality clause, Section 9 of the Constitution, and the Promotion of equality Act.

1.2.2.6 Awareness of consumer rights and legislation in disadvantaged areas

The purpose of the Act is to safeguard and advance all consumers' interests (South Africa, Department of Trade and Industry 2009: 2). The CPA demands that consumers be treated equally and that vulnerable consumers be protected (Mohamed, Reddy and Naidoo 2017: 42). Walsh (2009: 161) iterates that a consumer from a disadvantaged group who has established a relationship with the service provider in the market is likely to experience market discrimination by employees of such a service provider and not pay attention to such acts or ignore such behaviour due to not being aware of general treatment they are entitled to as consumers not to be separated by class or financial status.

The CPA addresses a number of the challenges mentioned above, such as requiring suppliers to draft all consumer agreements in simple and plain language; consumers being treated equally in the market etc., which is experienced by the average consumer; and by providing a list of various consumer rights. Although the Act does not provide or necessitate the need for additional rights for vulnerable consumers, these provisions are aimed at decreasing and changing any disadvantages experienced by consumers in accessing goods and services due to staying in disadvantaged areas or communities (de Stadler (2016: 15). Therefore, vulnerable consumers do enjoy rights such as (but not limited to): the right to quality; the right to fair, just and reasonable terms and conditions; and the right to disclosure and information in terms of the Consumer Protection Act 68 of 2008.

1.3 Problem statement

Vulnerable consumers exist in every economy and sound protection for them is mandatory because these types of consumers are exposed to numerous unfair business practices. Kenton (2020: 1) defines unfair business practices as the use

of various misleading, dishonest or unethical practices to gain business, which can include misrepresentation and non-compliance with standards and the law (e.g. suppliers not using plain language in consumer contracts, unfair contractual terms, contracts favoring one side of the parties, etc.). This can take place in specific markets intended for socio-economically disadvantaged consumers.

According to Yan and Nguyen (2017: 6-7), it is not only unfair business practices that are detrimental to vulnerable consumers, but they are also unable to understand the information in contracts because of low educational levels and they thus become easy targets for harsh and unfair practices in the marketplace.

Consequently, there is a need to investigate the contractual challenges faced by vulnerable consumers, particularly in South Africa because of its high level of vulnerable consumers who need more protection, as well as to determine what protection is available to them in terms of consumer protection law in order to promote the full economic participation of all historically disadvantaged consumers, as explained in Section 2 of the Consumer Protection Act 68 of 2008 (Meumann and White 2010: 75).

Many of the consumers in South Africa were historically disadvantaged, unfairly treated in the market and exposed to unfair business practices. The preamble to the Consumer Protection Act 68 of 2008 therefore clearly states its aims with respect to such consumer community. It is therefore a significant development for average consumers to have governmental provisions that look out for their safety and protection in markets where businesses continue to focus on economic gain (South Africa, Department of Trade and Industry 2009: 2).

The Unfair Business Practice Act 71 of 1998 states that any business practices that unfairly harm relationships between companies and consumers, unduly harm consumers, intentionally mislead consumers or otherwise negatively impact consumers, are defined as unfair business practices (Mugobo and Malunga 2015: 225).

Consumer vulnerability has many factors, such as consumers interacting in the market with inadequate information in order to make informed decisions; consumers that have poor access to information due to geographical location or

limited resources; and consumers with low confidence in seeking justice due to fear and a lack of language proficiency. Consumer vulnerability is further explained as finding it beyond their ability to make a wise and informed decision and is vulnerable to manipulation and dishonesty (Rachagan, Lee and Glendile 2019: 3-8).

According to de Stadler (2016: 20), other contributing factors to vulnerability include the situation where consumers are disadvantaged and have a low socio-economic status, which puts them in an inferior position to negotiate or where they experience inequality in negotiation power with businesses.

In the Finance sector, consumer vulnerability is not protected enough, as evidenced from studies where it was shown that consumers who are socially disadvantaged do experience pressure; they struggle to understand financial policies when seeking financial assistance; and furthermore, these policies are written in a very complex manner, while the Consumer Protection Act 68 of 2008 requires that such consumer information be presented in plain and understandable language. Such consumers must suffer the consequences and put themselves on a greater scale of being exposed to risks (Rowe, Holland, Hann and Brown 2014: 17).

There are cases such as applying for credit in financial institutions or taking hire purchase agreements with retail stores; failing to understand the agreement at hand due to the language used where consumers have agreed that they have made decisions to bind themselves to products/services produced by providers, mostly when they are in need of those services or they are in a vulnerable state and the decisions that they take due to a lack of knowledge have negative effects later that they cannot correct themselves due to having no other means to do so (Rowe *et al.* 2014: 17).

Cousins (2004: 14) states that consumer vulnerability does not exist in isolation from the market the consumer is in. The market factors that contribute to consumer vulnerability are information imbalances; the market power that suppliers have; and the exploitation of consumers in that market because it is the result of consumers having a challenge of poorly accessing the information that they should have access to. Hence, this study aims to investigate the selected

contractual challenges faced by consumers who are disadvantaged by socio-economic circumstances and the role of the Consumer Protection Act 68 of 2008 in protecting such consumers and addressing the challenges that they face.

1.4 Aims

The aim of this study is:

To investigate the consumer rights of the socio-economically disadvantaged as vulnerable consumers and the role of the Consumer Protection Act 68 of 2008 in protecting such consumers and addressing the consumer challenges that they face.

1.5 Objectives

The objectives of this study are:

- To examine the concept of vulnerable consumers and socio-economic disadvantage as grounds for vulnerability;
- To explore how the socio-economic environment of consumers who are disadvantaged contributes to the challenges they face in respect of contractual agreements with businesses, particularly relating to unfairness;
- To determine the level of awareness of consumers who face socio-economic disadvantage with respect to their consumer rights and protection; and
- To determine whether the Consumer Protection Act 68 of 2008 adequately protects socio-economically disadvantaged consumers and, if not, what measures can be used to address such challenges.

1.6 Research questions

- What is meant by the concept of “vulnerable consumers” and how does socio-economic disadvantage contribute to the vulnerability of consumers?
- In what ways does the socio-economic environment of disadvantaged consumers contribute to the challenges they face in respect of contractual agreements with businesses?

- What is the level of awareness of such consumers with respect to their consumer rights and protection in terms of the Consumer Protection Act 68 of 2008 and related legislation?
- To what extent does the Consumer Protection Act 68 of 2008 and related legislation protect vulnerable consumers, particularly those who are disadvantaged due to socio-economic circumstances?

1.7 Research hypotheses

The following research hypotheses were formulated to guide this study based on the aims, objectives and the literature reviewed:

Ho1: Contracts which are written in a language that is difficult for consumers to understand do not play a significant role in pre-drafted terms in standard form contracts which present challenges for consumers;

Ho2: Consumers being made aware of their right to disclosure, (i.e. to be made aware of all the information about the contract so that they can make informed decisions) does not play a significant role in consumers being misled by suppliers making false, misleading or deceptive statements relating to the contract; and

Ho3: Contracts containing terms that mostly favour the supplier, with little protection for the consumer, do not play a significant role in consumers settling for poor performance as it takes longer to cancel a contract since it requires them to follow a lengthy process.

1.8 Rationale

This study will benefit the government and community members at large by enhancing knowledge on the contractual challenges experienced by vulnerable consumers, as well as specific aspects of existing legal provisions to protect consumers and the level of consumer awareness of those provisions.

In South Africa, certain consumers were previously excluded from fair business practices as a result of apartheid. Due to the resulting inequality because of contributing factors such as low literacy levels, consumers from disadvantaged backgrounds experience a huge gap in understanding the contents and consequences of business contracts. The preamble to the CPA clearly

acknowledges these challenges facing such consumers. Hence the aim of the Consumer Protection Act 68 of 2008 is to ensure a fair and accessible marketplace and to eliminate unfair marketing and business practices (Reddy and Rampersad 2012: 7404). This study will enhance the need to constantly review the effectiveness of the CPA provisions for all consumers.

The unequal bargaining power between consumers and suppliers causes serious losses to an average consumer and it is even worse for a disadvantaged consumer, leading to them not taking matters to court due to high litigation expenses. In this respect, the CPA provides for the consumer's right to equality in the consumer market (Section 8) and also provides for the right to fair and equitable marketing, as well as the right to disclosure and information (Reddy and Rampersad 2012:7408). This study will examine whether these provisions in terms of the CPA adequately protect consumers facing socio-economic disadvantage.

1.9 Delimitations

This study focuses on vulnerable consumers, namely those consumers who have low literacy levels and/or who earn low incomes, as defined by Section 3 of the CPA. For the purposes of this study, the respondents are further classified as socially disadvantaged consumers from the Illovo Township in the Bhukulwandle area in the province of KwaZulu-Natal.

1.10 Summary of Research Methodology

Igwenagu (2016: 4) defines research methodology as an organized, theoretical study of the methods applied to a field of study or, in simple terms, it is a guide to research and how it is conducted. Various methods and techniques can be used to present the search conducted by the researcher. These techniques enhance the research process and show how research was carried out. There are different types to choose from, namely quantitative research, qualitative research, descriptive research etc. (Pedamkar 2020: 1).

This section sets out the research design, target population and sample; describes the research instrument and data collection and analysis procedures; as well as how the reliability and validity of the study is assessed.

1.10.1 Research design

Research design deals with a plan or structure of the research before data is collected or any analysis can begin. According to de Vaus (2001: 9), it deals with a logical sequence of the research. Research design can be qualitative or quantitative. A Qualitative design is a way of adopting an interpretation approach to data, or the studying of a particular case within the context and considering the subjective meaning to it; while a quantitative design is more collaborative, with social surveys or experiments, as they show a numerical approach (de Vaus 2001: 11). This study adopted a quantitative design.

1.10.2 Target population:

Although the CPA does not specifically refer to disadvantaged consumers, it does refer to vulnerable consumers. Two of the categories listed to show vulnerability are firstly, low-income consumers and secondly, persons whose ability to read and comprehend is limited by the reason of low literacy or limited fluency in the language (Section 3(1)(b)) of the CPA. Hence, these two factors were considered when identifying the target population. The target population for this study is all the individuals in the Illovo Township of Bhekulwandle.

1.10.3 Sample selection method

This study adopted a probability sampling method, namely the systematic sampling method. Sekaran and Bougie (2010: 174) explain that in systematic sampling, which is a sort of probability sampling, sample participants are selected from a large population using a pre-determined interval but a random beginning point. According to Taherdoost (2016: 21), it is where every n th case after a random start is selected. The author indicates that the advantage of using this sampling method is its simplicity.

1.10.4 Sample size

According to the data available, there are 1091 households in the Bhekulwandle area (Frith 2011). To ensure that the sample is representative, the systematic sampling method will be used, for which a sampling interval needs to be

calculated. The sample interval is 4 (1091 households divided by 291 is 3,74). The questionnaire was administered to every fourth household.

1.10.5 Data collection and the research instrument

The questionnaires were delivered by hand to the respondents. They were left with the respondents for completion and self-administration. The completed questionnaires were collected by the researcher at an identified time.

1.10.6 Data analysis

For this study, the data collected is analyzed using SPSS (Statistical package for the Social Sciences) software. Both descriptive and inferential statistic are used to present the results from the study.

1.10.7 Pre-testing

A pre-test was conducted by administering questionnaires to 10 consumers. The questionnaires were self-administered. The pre-test served to ensure that the respondents understand the questions; to avoid ambiguities; and to ensure the reliability of the instrument.

1.10.8 Validity and reliability

In this study, validity was assessed using the factor analysis test, which can be described as a statistical technique used to uncover relationships amongst many relations. The Cronbach alpha test was used to assess reliability. In addition, a pre-test of the consumer questionnaires was also be used to assess reliability as indicated above.

1.10.9 Anonymity and confidentiality

In this study, confidentiality was maintained using anonymous questionnaires and by not revealing personal information when the data is analyzed.

1.10.10 Ethical considerations

Signed written consent was provided by the study participants. They were informed that taking part in the study is completely up to them and that they can opt out at any time. The researcher also adhere to DUT's ethical standards, which

are detailed in the ethics section. The data collected for the study will be kept for five years before being deleted.

1.11 Structure of the dissertation

Chapter 1: Introduction and background to the study

This chapter introduced the study and presented the problem statement, study aims and objectives, as well as the rationale for the study.

Chapter 2: Literature Review

The second chapter describe a review related to literature on the contractual challenges of vulnerable consumers and the implications of the Consumer Protection Act 68 of 2008.

Chapter 3: Research Methodology

Chapter Three contains the layout of the research and the methods that the study has adopted.

Chapter 4: Data analysis and Discussion of Results

This chapter provides full details of the analysis and interpretation of data collected from the empirical study and findings from the study.

Chapter 5: Conclusions and Recommendations

The final chapter includes conclusions and recommendations from the study and the researcher's recommendations for future studies.

1.12 Conclusion

This chapter set out the study's background and the problem statement, focussing on the challenges of disadvantaged consumers, which is one of the categories of vulnerable consumers (as described in the CPA). It also outlined the study's aims and objectives, as well as the research questions. It provided the rationale for the study, and briefly introduced the methodology to be adopted. Chapter 2 deals with literature review in relation to vulnerable consumers and the implications of the Consumer Protection Act.

CHAPTER 2

LITERATURE REVIEW

2.1 Introduction

Consumerism according to Scott (2018: 1), is often traced back to the inception of capitalism within 16th century Europe. It increased in the eighteenth century due to a growing socio-economic class that embraced luxury spending. The author elaborates that the increase in consumerism today is obvious in both developed and developing countries (including South Africa) and that it can be seen in the production of luxury goods, the flooding of the media with advertisements and private debt levels that are evidently rising globally. Sandertrade (2021: 1) states that given the history of South Africa, poverty and inequality has extremely affected over half the population, which is mostly people who are living below the national personal income level and coping with high unemployment rates. On the other hand, it has one of the foremost advanced constitution in the world, with a Bill of Rights that centers on expanding social and economic rights, as well as a lively and independent judiciary (Francis and Webster 2019: 788).

The majority of the population is from the low-income market and as a result, historically, their needs are under-served. From the increased service delivery protests, it is clear that government cannot address the needs of this market alone. South African companies have heeded the decision to play a role and have targeted this market, but their efforts have been inadequate and have accomplished limited victory (Mokoto 2009: 20). The Congressional Research Service report consolidated by Cook (2020: 9) noted that income and consumption distribution in South Africa are notably unequal to a point that its GINI coefficient (measure of income inequality) is consistently high or rated amongst the highest globally. The author adds that the existence of a sizeable portion of the poor majority that lacks access to adequate infrastructure, particularly in rural areas and in vast high-density settlements surrounding cities (also known as townships) that are inhabited by black and mixed-race residents, is evidence of the prevalence of socio-economic and infrastructural inequalities.

Furthermore, in the past, many sectors excluded consumers from underprivileged communities from fair business transactions, and access to goods and services was

difficult. According to Reddy and Rampersad (2012: 7403), consumer protection, apart from certain common law rights, remained undefined and uncoded. Low literacy constituted a significant disadvantage for consumers who were the victims of unfair business practices since they were uninformed of their rights or how to get legal representation. To address these issues, the Consumer Protection Act (CPA) 68 of 2008 was introduced.

Poor and low-income residents, especially from rural and informal communities, lacked basic financial literacy, making them more susceptible to irresponsible spending and predatory lending. Additionally, they are not able to take advantage of the fundamental financial services and goods provided by formal financial institutions. Thus, although several pieces of legislation and related measures for financial inclusion have been introduced since 1994, further changes are needed to improve financial literacy and mitigate the country's poor and low-income workers from being excluded (Chitimira and Ncube 2020: 342-346).

The review of literature for this study will be divided into two parts. The first part discusses the contractual challenges faced by consumers who are classified as “vulnerable” under Section 3 of the CPA, and the second part looks at the legal framework (with a focus on the CPA); how such challenges are addressed; and what remedies are available in case of any breach of consumer rights by the supplier.

2.2 Poverty and inequality in South Africa

According to Francis and Webster (2019: 789-791), South Africa entered a new political era following the end of apartheid and the first democratic elections in 1994, but it was still plagued by significant racial inequality and pervasive, extreme poverty. The Constitution, used as a normative framework, requires that any socio-economic right and policy must be in line with it and used as a reference to scale the progress in attempts to end or reduce inequality. The authors further iterate that South Africa's inequality challenge arises from the unequal distribution of income and market power, which are the main driving factors of inequality.

Due to the extreme racial disparity present in South Africa, economic inequality is a problem that persists. Life expectancy, infant mortality and educational standards in South Africa are similar to those of low- to lower-middle-income countries than an

upper-middle-income one (in terms of GDP per capita and economic structure). This illustrates the fact that opportunities and resources are not distributed equally (Van Der Berg 2010: 3).

Kambaran and van Zyl (2007: 10) are of the view that inequality must not be treated as the same as poverty because they are not the same. However, the two are closely related to each other, and high levels of inequality in any country imply many things. One of these is that there are higher levels of poverty in that country.

With inequality being deeply rooted in South African's history of apartheid (Philip, Tsedu and Zwane 2014: 10), it is no secret that the levels of education of certain individuals and communities are still affected due to such inequality, which resulted from the implementation of racist policies that began in the colonial era and were abolished in 1994 (McKeever 2017: 117).

Studies conducted in recent years have proven that the highest levels of inequality are found in Latin America and Africa, particularly Southern Africa. This comes with many consequences. In the South African context, there are high poverty rates despite government efforts through policies aimed at addressing these challenges, but with little or no progress (Kambaran and van Zyl 2007: 49). Since 1994, legislation was promulgated to remove barriers and advance disadvantaged groups. This radical transformation also demanded participation from trade unions to lead and form movements that were solely for the purpose of fighting for consumerism and the rights of consumers (Bruyan and Freathy 2010: 538-544).

As a result, there are two extreme job categories on the labour market. The majority of the population are employed mostly in informal jobs that pay less, whereas a minority them have highly paid jobs, primarily in formal sectors and larger businesses. When people discover high-paying positions, they are reluctant to leave them once they have them. Jobs with lower incomes tend to be more fluid and more new-jobseekers are likely to be hired. When skilled employees' earnings rise, the stagnation of semi-skilled workers' pay feeds the rise in wage inequality (Hurlbut 2018: xvii).

The earnings distributions as indicated by Stats SA (2015: 1) show that the racialized inequality in the South African labour market is obviously a cause for concern. In addition to having the worst employment results, Black Africans also have the lowest

incomes when they do find a job. White people, on the other hand, have wages that are significantly higher than those of all other racial and ethnic groupings. Furthermore, In order to put things into perspective, black Africans who were in employment between 2011 and 2015 earned an average of R6 899 (actual earnings) each month. For coloured individuals and Indians/Asians, the corresponding monthly amounts are R9 339 and R14 235, respectively. White people received R24 646 each month, which is more than three times what black Africans received. This clearly demonstrates the income inequality in the country.

2.2.1 Government measures to improve the financial position of the poor in the country and to address inequality

Specific legislation was passed by the government to to improve the financial position of the poor in the country and to address inequality. These included the National Minimum Wage Act 9 of 2018 and the Promotion of Equality and Prevention of Unfair Discrimination Act 4 of 2000 which are briefly explained below:

- Measures introduced to improve financial position of the poor: The National Minimum Wage Act 9 of 2018 (South Africa 2018) prescribes minimum wages that should be paid to employees in various sectors. The purpose of minimum wage is to protect workers against unduly low pay. They help ensure a just and equitable share of the fruits of progress to all, and a minimum living wage to all who are employed and in need of such protection. Minimum wages can also be one element of a policy to overcome poverty and reduce inequality, including those between men and women, by promoting the right to equal remuneration for work of equal value. Minimum wage systems should not be seen or used in isolation but should be designed in a way to supplement and reinforce other social and employment policies (ILO 2023: 2).
- Measures to eliminate inequalities: Section 9 of the Constitution provides for the passing of national legislation to encourage the achievement of equality and to provide redress measures for the consequences of unfair discrimination during apartheid. One such piece of legislation is the Promotion of Equality and Prevention of Unfair Discrimination Act 4 of 2000 (South Africa 2000). This Act suggests the advancement of historically individuals and communities, by special legal and other measures. It aims to provide redress for historically

disadvantaged individuals, communities and social groups who were dispossessed of their land and resources, deprived of their human dignity and who continue to endure such consequences. Furthermore, the Act therefore aims to speed up the transition to a democratic society that is unified in its diversity, characterized by caring and compassionate interpersonal relationships, and guided by the ideals of justice, equality, fairness, and social development as well as human respect and freedom.

2.3 Consumerism in South Africa

Bhardwaj (2014: 4) defines consumerism as a broad spectrum of actions taken by the government, corporations and organizations that protect consumer rights. It is also the procedure by which customers seek remedies to address their dissatisfaction and market-related frustrations. The author further states that the Consumer Protection Act 68 of 2008 is one such effort that aims to safeguard and inform consumers.

Kelly (2021: 1) is of the view that consumerism is the idea that getting more goods and services on the open market is always a positive thing to do, and that a person's security and happiness largely depend on their ability to acquire consumer goods and material possessions. Therefore, the Theory of Consumerism is founded on the notion that people who consume more or larger quantities of products are better off.

Barnard (2015: 223) indicates that the trend of consumerism is taking place throughout the world, including developing countries like South Africa. South Africa joining the movement of consumerism was a much-needed initiative, considering the high levels of poverty, illiteracy, social and economic inequality experienced in the country (Fitzroy 2011: 1). Lister (2016: 9) is of the view that as glorious and liberating as the notion of consumerism is or can be for consumers, the reality is that the government and the private sector want to promote it through policies aimed at increasing the turnover of goods, such as planned product obsolescence, fast food and fashion and expensive marketing, which are all aimed at encouraging consumers to consume more and more in order to find satisfaction.

Cole (2019: 1) is of the opinion that consumption/consumerism takes on the role of the moral prism through which people view the world; their level of capability; and their prospects for achieving their objectives. This is because spending habits shape and

support individual social and economic ideals. The odds of individual choices and behaviour are manipulated by consumerism. The terrible trick, according to the author, is that a society of consumers thrives on the inability to ever buy enough and on the system's final inability to please anyone.

The system partially delivers on its promises, but falls short. Instead of promoting enjoyment, consumerism encourages fear - fear of not belonging, of not possessing the right items, and of not indicating the essential social or personal position. In addition, consumers are more susceptible to problems with quality and safety due to technical improvements; mass manufacturing; a growth in the number of goods and services available; and increased transactional distance, and they have no access to effective solutions (Lombard 2020: 20).

Being able to choose from a variety of commodities available on the market and not being forced to settle for a single variation opens up the prospect of higher living standards, which is a benefit of a market focused on serving consumers. Furthermore, as people can afford better cars, homes, furniture and clothing, their quality of life improves. As businesses compete for customers' attention with competitive pricing and ongoing reductions, consumers spend a little less (Anon 2017: 1).

2.4 Identifying vulnerable and disadvantaged consumers

The South African government has devoted much time, energy and resources to identifying and assisting vulnerable groups in society, creating legislation to safeguard their rights, and creating and implementing programmes and methods to assist them. Despite the fact that several initiatives to enhance the welfare of vulnerable groups have been put in place over the past few decades, little attention has been paid to determining the degree to which service delivery has affected the circumstances of these vulnerable groups over time (Stats 2012: 1).

Although the CPA does not define vulnerable consumers specifically, it does make reference to a number of different consumer groups. Section 3(1)(b) of the CPA clearly states that the goal is to advance the social and economic welfare of South African consumers by minimizing and resolving any challenges experienced in accessing the supply of goods or services by consumers who are:

- “low-income persons or persons comprising low-income communities;
- who live in remote, isolated or low-density population areas or communities;
- who are minors, seniors or other similar vulnerable consumers; and
- whose ability to read and comprehend any advertisement, agreement, mark, instruction, label, warning, notice or other visual representation is limited by reason of low literacy, vision impairment or limited fluency in the language in which the representation is produced” (Barnard 2014: 5).

Hence, in terms of the Act, low-income persons or communities are those who live in remote or isolated areas, minors and seniors, and those with low literacy, vision impairment or limited fluency in language. Cousins (2004: 5) asserts that a consumer qualifies as being disadvantaged when he/she has a persistent condition or ongoing traits that have a negative impact on spending and that lead to continued vulnerability that influences consumption. As a result, disadvantaged consumers frequently experience consumer harms, or experience below-average satisfaction from their purchases.

Studies conducted by the World Bank in 2019 showed that there are 781 million illiterate adults across the globe who struggle in many daily responsibilities, which they are faced with as a result of their illiteracy. Through the use of observations, the study concludes that illiterate consumers have been mis-reading labels, mis-using products, and purchasing the wrong items (Stewart and Fen-yen 2020: 343). The authors further explain “vulnerable consumers” by using a class-based approach, where all illiterate consumers are considered vulnerable due to the common literacy difficulties that they face; and a state-based approach, which considers only those consumers who feel their vulnerability and the sense of being powerless.

The history of socio-economic inequality in South Africa resulted from the purposeful side-lining of the majority black population and their exclusion from financial and other consumer markets, economic and political participation, or quality education (Meiring, Kannemeyer and Potgieter 2018: 5). That exclusion resulted in poor consumers being commonly denied access to various essential services by different suppliers, which in turn leads to increased stress and difficult livelihoods (Kamran 2018: 11).

Coppack, Raza, Sarkar and Scribbins (2015: 6) state that this becomes a very worrying matter that needs attention because much of South Africa's consumer protection laws are based on the notion of the 'normal' consumer and how they might think, act and expect to be treated. However, it is consumers who are regarded as vulnerable that are highly unable to represent and protect their own interests, as compared to the typical or average consumer can.

2.5 The socio-economically disadvantaged as consumers

Kapur (2018: 1-2) defines socio-economic disadvantage as people who live in conditions of poverty and backwardness, and they are the ones who experience social disadvantage the most. The author adds that social disadvantage is represented as a concept that takes into account a number of social positions, including economic status, educational achievement and background. Furthermore, people are considered to be members of socio-economically disadvantaged groups when they cannot afford to feed their families; educate and train their children adequately; have a low per capita income; lack adequate housing; and have insufficient access to clean water, electricity and other necessities.

Statistics provided by Santander Trade (2021: 1) show that the level of education in the country has been judged to be amongst the lowest in the world by the Organization for Economic Co-operation and Development (OECD). About 43% of the 25-64 age group of adults have a high-school education and only 15% are university graduates. Recent South African data show that about 68% of the population have a high-school education and only 12% are university graduates. Moreover, the level of education varies according to ethnic origin.

Through research studies conducted in certain developed countries, it is apparent that in the US and UK there are particular groups of consumers that are vulnerable and in need of protection due to their age or language proficiency. Barnard (2014: 10-12) stresses that with the world becoming a global community and the need to adapt to new advancements, it is mandatory that vulnerable consumers are protected from all the crises that could arise. The author further iterates that in the South Africa context, as one of the developing countries, the Consumer Protection Act 68 of 2008 provides more comprehensive and encompassing mechanisms to protect consumers. Section

27 of the Constitution states that everyone has the right to healthcare, sufficient food and water, and social security.

According to the World Bank, in 2019, the Purchasing Power Parity (PPP) GDP Per capita in South Africa amounted to \$ 12 999. South African households had an average disposable income of about R 34 037 in 2019. Purchasing power is very limited for many residents, since more than half of the population live below the national poverty line and the unemployment rate is very high-ranking (23.3%). Social and income inequalities are high in South Africa and the Gini index stands at 0.65 (0 being the minimum level of inequality, 1 the maximum). The International Monetary Fund (IMF) estimates that South Africa suffers amongst the highest levels of inequality in the world, with high unemployment, especially amongst young people (over 50%), being one of the main causes of such inequality (Santander Trade 2021: 1).

Recent reports by Santander Trade (2021) comment that this trend has been supported by figures from Stats SA and as of 2019, the nation was still ranked amongst the most unequal in the world. The survey also showed that women typically made 30% less money than males, and that women with only a high-school diploma made only 68% of what men did. Additionally, the average pay of the white population, which makes up just over 10% of the labour force, is approximately three times that of the black population, who make up nearly three-quarters (73%) of the entire labour force. Furthermore, according to the survey, over 46% of the nation's unemployed are black individuals, compared to just 10% of white people. It is obvious that racial disparities in income exist and that socio-economic deprivation is a harsh reality.

The CPA's preamble makes reference to these groups of people. It recognizes that apartheid and discriminatory laws in the past led to unacceptably high levels of poverty, illiteracy and other forms of social and economic inequality in the country. Consequently, it is essential to create and use modern approaches to, amongst other things, uphold the rights of historically underprivileged people and to promote their full participation as consumers (Burger 2017: 7- 8).

According to Barnard (2015: 223), Section 3 of the Act states that a vulnerable consumer includes those with low income, the illiterate, young and elderly consumers. From the various categories of vulnerable consumers mentioned, this review of related literature pertains to consumers who are socio-economically disadvantaged. The

author further iterates that, under the CPA, there is no definite definition of who a vulnerable consumer is, but the use of characteristics in identifying this type of consumers has been laid out. As noted above, Section 3 of the CPA sets out several categories of vulnerable consumers that spell out what will constitute socio-economic disadvantage for the purposes of the Act.

2.6 Socio-economic disadvantage as grounds for vulnerability

Consumers who earn a low income such as low-income persons, those who live in remote areas, minors and seniors and those with low literacy levels can understandably be less willing to take risks because they have fewer or no say to meet the unexpected costs or the financial burden they face (Anon 2015: 6). Furthermore, consumers who are socio-economically disadvantaged have fewer choices in many markets compared to better off consumers who have more money to lend and access a wide range of products or services.

Hirst (2018: 5) is of the view that disadvantaged consumers are those consumers who lack skills that are beneficial to them as consumers. The author adds that they have little educational background, which limits them in gathering the available information in order to make an informed decision, as well as limited ability to critically evaluate all vendors in the consumer market before deciding to purchase a good/service. In the decided case of *Makah v Magic Vending (Pty) Ltd*, the court emphasized that the CPA recognizes the reality of many South African consumers, including their high levels of poverty, illiteracy and other forms of social and economic inequality. It added that the CPA also protects consumers who are more vulnerable due to language barriers, vision and language impairments; high levels of poverty; and limited reading and comprehension skills. The Act's language makes it clear that it is necessary to uphold the rights of historically marginalized people and to encourage their active involvement as consumers.

Section 3(1) (b) of the CPA clearly states that a vulnerable consumer is one that is identified as low-income persons, living in remote or rural areas, and consumers with low literacy levels. The CPA (Section 8) strives for equality to be implemented when dealing with such consumers in relationships with businesses so that they are protected and uplifted, whilst at the same time pursuing social justice, especially in a country such as South Africa where poverty and inequality is a reality (Mupungavanhu

2015: 129). Moreover, Hawthorne (2014: 417) acknowledges that vulnerable consumers are exposed to being exploited in the market due to their socio-economic condition and disadvantaged status.

Studies in other countries like the United States and the United Kingdom have shown that because of their vulnerability, the disadvantaged consumer does face exploitation from the consumer market, such as paying more for goods and services compared to other consumers, and they are mostly side-lined when it comes to accessing essential goods and services (UNCTAD 2018: 13-14). Walsh (2009: 148) outlines that disadvantaged groups are perceived as members of a sub-ordinate group, making customer service employees treat them differently.

Mugobo and Malunga (2015: 225) further reveal that the low levels of literacy in South Africa, particularly in rural areas, which may be due to the unequal distribution of basic resources, like education and other essential infrastructure, was one of the key reasons for the need for new consumer protection legislation. The authors conclude that such customers lack a thorough understanding of their rights and are therefore vulnerable to company exploitation.

Shearer (2010: 1) further explains that a vulnerable consumer experiences information asymmetry and a significant imbalance of power and often has limited freedom to choose the conditions upon which they contract to obtain goods or services. Therefore, Shearer states that access to justice for these consumers must be holistically included in any economy that is seeking growth.

The South African market consists of high levels of poverty, illiteracy and other forms of social and economic inequality (Mugobo and Malunga 2015: 227). The authors further state that vulnerable consumers are indeed those consumers who are unable to read or understand advertisements or agreements due to low literacy levels and vision impairments, but the aim of consumer protection is to govern the marketplace by protecting the weaker party in the transaction so that the other party does not take advantage of the weaker party's lack of bargaining skills, making it a vital need for this legal protection to be enforced. In the decided case of *Jordan and Another v Farber*, the court declared that a contract that was one sided, with unequal bargaining power and a party placed under stressful financial conditions for them to sign, is invalid.

From the review of the literature above, the challenges referred to are still experienced by consumers who face socio-economic disadvantage, and such an aim to protect consumers in this context has not been achieved.

2.6.1 Theoretical grounding

Reeves (2015: 1) explains that theories provide comprehensive conceptual understandings of things like: how organizations function, how societies function and why people interact in particular ways. The author adds that theories provide researchers with several "lenses" through which to see challenging topics and social problems, and helps to focus on different facets of the data. Many research studies employ the widely established methodology known as Grounded Theory. Grounded Theory sets out to develop or learn theory from data that is collected methodically and examined via comparative analysis. (Tie, Birks and Francis 2019: 1). The dominant theory applicable for this study is the Social Justice theory, which is briefly explained below.

2.6.1.1 The Social Justice Theory

Social justice is defined by the Oxford Dictionary (2021) as:

“The objective of creating a fair and equal society in which each individual matter, their rights are recognized and protected, and decisions are made in ways that are fair and honest.”

According to Rawls (2016: 3), justice is the fundamental moral principle of social structures, just as truth is the basis to systems of thinking. Even the most beautiful and rational theories must be abandoned or altered if they are false, and similarly, even the most effective and well-organized laws and institutions must be changed or eliminated if they are discriminatory. The author adds that even the good of society cannot trump each person's "inviolability predicated on justice" and claims that the concept of justice rejects the idea that a “greater good” for some people makes up for the loss of freedom by others. It does not accept the idea that a greater number of advantages received by many people outweigh the sacrifices made by a select minority.

Young (2021: 1) is of the view that for more than a century, the phrase "social justice" has come to denote, broadly speaking, the state redistributing benefits and resources to underprivileged groups in order to uphold such groups' legal claims to social and economic equality. The author adds that American academic social science has backed the idea of "social justice" in place of the original goal of justice as equality of opportunity.

Khechen (2013: 5 – 6) states that although there is disagreement regarding the definition and application of the term, "social justice" is frequently associated with the development of a just society, with the underlying presumption that justice entails human welfare through the recognition of cultural differences; equal rights and benefits distribution; fair treatment; and equitable access to resources and opportunities. The author further explains that the two sub-groups of rights which are fundamental to social justice are (a) legal rights, which include inherited rights and other lawful rights, like the right to receive payment for one's work in accordance with mutually agreed-upon terms, and (b) moral rights, which include fundamental human rights and the right of particular groups to specific geographic territories. Moral rights, like the issue of human rights, are safe-guarded in socially fair societies even in the lack of legal guarantees by sufficient procedures, norms and regulations, some of which are widely acknowledged.

The underpinning theory for this study is the Social Justice Theory. In order to have a free market, social justice is a necessity because a lack of social justice in the marketplace in any country leads to negative implications for consumers as they are left voiceless and weak. Furthermore, for consumers to have access to social justice, the system must be equally accessible and the results produced by the system must be individually and socially just for every consumer (McGregor 2017: 6-7).

2.7 Consumer contracts and consumer protection

The majority of commercial relationships between a business and a consumer is based on contract law. In its most basic form, a trader consents to provide a consumer with goods or services in exchange for payment of a pre-determined price. This understanding/contract may be established in a number of ways, including orally, through conduct, or more formally by agreeing to a written agreement that includes all

the terms on which the parties agree to carry out their obligations (Competition and Consumer Protection Commission 2020: 2-3). According to Bonner (2012: 1), a contract is just a list of legal obligations that can be upheld by promises. The author continues that a contract involves one party making an offer to perform something in exchange for a gain, and another accepting it. The injured party may pursue legal remedies if the promise is broken.

Consumer contracts can be divided into three groups. The first one is distance sales such as telephonic contracts, mail-order and online sales where the contracts involve the systematic techniques of distance selling and take place when the trader and the client are not in the same location. The second group involves contracts that are transacted on the business premises, including a trader's regular location and any temporary locations (like a market stall), known as on-premises sales. The third one is off-premises contracts, which are agreements made outside of business premises when both the trader and the consumer are present, such as when visiting someone's home (Anon 2021: 1).

Typical consumers find themselves in an agreement for the supply of goods or services. A contract can be defined as a legally binding agreement that can be entered into as a standard form contract, a negotiated contract, a verbal contract or an electronic contract (Anon 2021: 1). The CPA lays out guidelines that limit the freedom of contract that suppliers and consumers have over the negotiation of contracts and the terms that may or may not be included. Consequently, the Act establishes standards for substantive and procedural fairness (Fritz 2014: 31).

According to Benater (2011: 1), the CPA provides that fixed-term contracts, such as contracts for cellular phones, leases and contracts with educational institutions, must have a definite duration. Such fixed-term consumer agreements cannot go beyond a specific maximum duration. Unless a longer time is expressly agreed to with the customer and the provider can demonstrate a clear financial benefit to the consumer, the regulations now prescribe a maximum period of 24 months from the date of the consumer's signature.

2.7.1 Marketing in retail

Retail marketing includes all of the ways a business acquires customers and persuades those customers to purchase its goods and services. It can be classified as store-based marketing or digital marketing. The retail industry has existed for a long time, but it constantly changes and advances in response to emerging trends and markets (Meyers 2011: 1). Therefore, sellers have a specific responsibility to their customers since they have access to more information than consumers have, especially the most vulnerable customers who are less able to defend their own interests than other consumers, and who are more susceptible to harm from marketers. Hence, it is morally unacceptable to take advantage of them in this way (Gupta 2020: 1).

2.8 The need for protection of vulnerable consumers with respect to the marketing of goods and services

Advertising in South Africa is prohibited from using images or other visuals that could give consumers a false impression of the product according to labeling rules. The Consumer Protection Act makes it abundantly clear that vendors cannot deceive customers. The Act also forbids suppliers from exaggerating the benefits of specific goods or services that they provide (de Lange 2020: 1). The Consumer Protection Act intentions are very clear, that one may not mislead one's consumers, meaning that marketers need to think about their marketing materials and be sure that the typical consumer will understand the message and not be misinformed (van Zyl 2013: 1).

The CPA was endorsed to address certain important components of the modern day South African consumer market (Kent 2014: 1). However, the protection afforded to consumers by the CPA does not only protect them during the provision of goods and services or the conclusion of contracts, but it affords protection in the promotion and marketing thereof (Barnard 2015: 223).

As a result, the CPA contains a number of sections specifically devoted to marketing. In the past, many uninformed and vulnerable consumers in South Africa may have been persuaded to buy goods or services they did not need. Law-makers therefore thought it was appropriate to give such individuals some protection by establishing standards that apply to marketing operations (van Zyl 2013: 1).

The advertising Regulatory Board also serves to protect the interests of consumers against false advertising, which explains why they require that advertisers must have or produce evidence for their advertising claims. They must ensure that their advertisements are truthful, not misleading towards consumers for the sake of economic gain from sales, nor should they provide facts that mislead consumers (de Lange 2020: 1).

2.8.1 Overview of the CPA

In South Africa, the Consumer Protection Act (CPA) 68 of 2008 was created to protect customers from exploitation and harm. The Act upholds consumer rights and outlines both the rights and the obligations of providers of products and services. The Act's primary goals are to ensure fair, competitive and responsible markets that benefit consumers, advance moral business conduct, and advance and safeguard the financial interests of consumers (Department of Trade and Industry 2011: 1).

The Act covers a wide range of transactions that take place within South Africa for the provision of goods or services; the promotion of goods or services; or the actual supply of goods or services, unless the transaction is exempt from the Act's application. According to the Act, consumers have a number of new rights, while other already-existing rights are strengthened and expanded. These rights include the following: the right to fair value, good quality; and safety; the right to choose; the right to disclosure and information; the right to fair and responsible marketing; the right to fair and honest dealing; and the right to fair, just and reasonable terms and conditions (Jacobs, Stoop and Van Niekerk 2010: 301).

The CPA is a piece of legislation introduced in South Africa about a decade ago with a vision to provide a comprehensive consumer protection policy in the country throughout the supplier and consumer relationship. The Act makes provision for eight core fundamental rights as protection for consumers, including vulnerable consumers (Barnard 2015: 223). These rights are the right to equality; to privacy; to choice; to information disclosure; to fair and responsible marketing; to honest and up-front dealing; to fair, just and reasonable terms and condition; and to safe and high-quality goods, according to the CPA. According to the South African Constitution and the United Nations' consumer protection guidelines, every consumer of goods and services is entitled to these fundamental consumer rights, regardless of the amount of

money involved in the transaction or the significance of the goods that the consumer buys. These rights are recognized by the CPA (National Consumer Commission 2021: 1).

Chirwa (2012: 1) comments that the Act's overview acknowledges that many South African consumers are affected by extreme poverty, widespread illiteracy and other forms of social and economic inequality. The Act tries to safeguard a number of vulnerable groups, including those who reside in distant or low-density areas, children, elders or other similarly susceptible consumers, as well as people with poor literacy rates who have trouble reading and comprehending.

Most importantly, the CPA does not replace common law in South Africa, and any transaction which does not fall within the scope of the CPA will still be governed by the common law, such as the application of the cooling-off period that consumers have as a right; the returning of goods to suppliers by consumers; and the warranties that are afforded to consumers while purchasing goods (DuPlessis 2012: 16).

Hence, consumer protection law is very relevant in every market, but especially in the South African context where there are more vulnerable consumers (Govinden 2012: 23).

2.9 Contractual challenges faced by socio-economically disadvantaged consumers

In the traditional sense, the notion of freedom of contract implies that the parties to a contract were free to determine the content (terms and conditions) and consequences of contracts. In the twentieth century, South African judges implemented this principle in decided cases. It has been used in various ways by writers and judges in South Africa. Firstly, it has been used to grant people the freedom to negotiate the terms of their contracts without interference from the law. Secondly, it has been used to imply that once a contract has been concluded, its provisions should be given full legal effect. Thirdly, it has been used to grant people the freedom to select the other contracting party (Braun 2014: 6).

Section 3(1)(b) of the Consumer Protection Act defines a 'vulnerable consumer' as persons who are low-income earners; people who live in far-off isolated areas; people who are minors; and people whose ability to grasp is limited due to low literacy. This section provides an overview of the contractual challenges faced by vulnerable

consumers, with a focus on consumers who face socio-economic disadvantage, including those whose understanding is limited due to low literacy.

2.9.1 Suppliers not using plain language in drafting contracts

As indicated above, the CPA includes consumers who, because of low literacy, are unable to understand the language used and the terms and conditions in contracts. Consumers may not have the chance to discuss the contract's conditions before signing it, or they may not comprehend or be aware of the precise terms they are agreeing to. Many of them may believe that every clause in a contract is "the law," and as a result, they may not feel free to ask for changes to any clauses they find objectionable (Competition and Consumer Protection Commission 2020: 2-3).

Moreover, a contract's terms and conditions are frequently written using specialized terminology, which may be the reason that they are lengthy and complex. Additionally, vendors may wish to let customers know what they can and cannot expect from the products or services they have purchased (Elshout, Elsen, Leenheer, Loos and Luzak 2016: 14). Yet, the challenges with the language used in contracts are well-documented in case law (Kirby 2011: 1). In the case of *Standard Bank of South Africa Ltd v Dlamini*, the bank's credit agreement was designed to undermine the goals of the National Credit Act (NCA) 34 of 2005, since it was written in the bank's favour and did not include all of the consumer's legal rights. The court stated that one of the rights that consumers have in terms of the law is the right "to be informed by reasonable means of the material provisions of the documents he signs". It was pointed out that the creditor must demonstrate that it took all necessary steps to ensure that the consumer was aware of the crucial provisions of the contract and that its paperwork was legally compliant.

Fredericks (2011: 76-86) maintains that English is without doubt the primary language of South Africa, yet the understanding of this language is extremely low in rural areas and in groups with low levels of education. As a result, the Constitution's language provisions are set out in Section 6 which indicates all the official languages and elaborates on the use of these languages. Section 9 (equality), which prohibits unfair discrimination based, amongst other things, on language; and Section 31 (language and culture), which guarantees that everyone has the right to "use the language and

to participate in the cultural life of his or her choice". This is more of a problem where consumers come from a lower socio-economic background.

2.9.2 Contracts favoring one side in the supplier-consumer relationship

The term 'bargaining power' refers to the "exercise of power utilized in the specialized relationship of a negotiation". When a party in a negotiation can successfully sway the outcome they favor, they have bargaining power. When parties to a contract have an unequal ability to decide on the terms and conditions of the contract, this is known as having unequal bargaining power (Lugomo 2013: 9).

Du Plessis (2012: 25) states that it is a South African rule that contracts must be performed in accordance with the doctrine of *pacta servanda sunt*, meaning that the terms of the contract must be strictly adhered to and no contractual performance must be biased on either party involved. However, this is not always the case because a party that has either weaker bargaining power or lack of judgement in any contractual relationship, they will experience the unfairness in that relationship.

Aniol (2015: 10) states that the doctrine of autonomy assumes that both parties enjoy equal bargaining power according to the contract law of South Africa. However, through the introduction of standard-form contracts, this right was jeopardized, leaving a greater burden on the consumer. Hence, the CPA was enacted to ensure consumer protection.

Palanee (2014: 1) therefore maintains that consumers have little bargaining power to negotiate the terms that go into these contracts and end up being presented with take-it-or-leave-it contracts from the supplier, even though it is the consumer that is ultimately significantly affected. Terms and conditions in contracts may be unfair if they are solely determined by the supplier, such as a sale where the price has been fixed; where the consumer acknowledges that no warranties have been given; etc.

In addition, lawyers assisting the sellers and service providers in drafting the terms and conditions may go to extremes to protect their clients from legal action undertaken by their customers. For this reason, they may recommend their clients to incorporate various types of repudiation and exemption clauses, etc. Other terms that are included may be unreasonable or unjust, such as contracts where the consumer agrees to forfeit payments made or rights that he/she may have, or where the consumer cannot

withdraw from the contract under any circumstances, or where the terms are misleading or false (Elshout Elsen, Leenheer, Loos and Luzak 2016: 14).

Aniol (2016: 1) states that there are other challenges that may be experienced because of the inequality of bargaining power that is evident between suppliers and consumers where a contract is unfair, unjust and unreasonable. Most of the time, it is found to be excessively one-sided. It is further highlighted that the problem with standard-form contracts is not only the terms that are unfair, but also the expensive dispute resolution mechanisms that are placed in the contract by the drafter on behalf of suppliers, making the weaker party more vulnerable to abuse as this was not equally agreed upon (Modiba 2015: 10). According to Mupangavanhu (2012: 334-336), it would be less expensive for a consumer to take the dispute to a forum established under the CPA (such as the National Consumer Commission or provincial bodies) than to take it to an ordinary court.

2.9.3 Low literacy levels of consumers

Kapur (2018: 2) posits that when people are unable to read, write or solve mathematical problems, they face a number of challenges that make it difficult for them to do things like travel from one location to another, open bank accounts, carry out banking transactions, put their signatures where necessary, and make purchases at a store. Illiteracy always has a negative impact on people's lives and has destructive effects. When looking at the country as a whole, it is clear that it is plagued with low literacy levels and poverty. The author adds that in South Africa, low literacy is a serious disadvantage faced by a significant number of consumers who have difficulties in understanding the nature and effect of contracts.

Reddy and Rampersad (2011: 7411) support the view expressed above. Besides the fact that consumers do not read contracts, there is also the issue of the disadvantaged consumer whose literacy levels are so low that they cannot comprehend the content of contracts. Therefore, in the case of *Mathole v Mothle*, it was pointed out that when a person signs a contract, he is bound by the terms. Mothle told the court that even if he had read the contract, he would not have known the meaning of the clauses. The court decided that Mothle was responsible for determining the meaning of the words in the contract. It specified that if one of the parties failed to understand the agreement due to his own ignorance or mistake, there was no basis for annulling the contract.

This case reveals the injustice of decisions made under the "caveat subscriptor" principle.

Stewart and Fen Yan (2020: 345) are of the view that consumers hardly engage in complaint activities as they fear that the interaction or fighting for their rights with the store employees will result in feeling frustrated and powerless. Hence, they decide not to accept any in-store assistance and prefer to struggle alone rather than admit their illiteracy challenges.

Mhlanga (2011: 45) makes a comparison that grocery shopping may involve comparing prices, brands, advantages and other elements for literate consumers to get the best deal, but functionally illiterate consumers encounter greater challenges in the market because they have trouble understanding aspects of the shopping environment that most consumers take for granted, such as product labels, store signs and prices. The author continues by stating that these functionally illiterate consumers expend a lot of mental effort and energy evaluating value and making judgments based on the information that is made available.

Hence, many consumers who qualify as functionally uneducated are unaware of their rights and lack the assurance and competence required of typical consumers. They frequently forget to plan, check pricing and ask for a bill. Additionally, they are mentally overloaded with information in the retail environment (Mhlanga 2011: 46).

2.9.4 The inclusion of unfair terms and conditions in consumer contracts

According to Braun (2014: 10), a supplier will employ a standard-form contract to meet widespread needs for goods and services. Typically, the supplier will choose the conditions of the transaction. The author continues by stating that the consumer is expected to accept contractual conditions without discussion or even reading through all the details. Frequently, the consumer accepts such agreements without knowing or comprehending them. This is because the supplier has more negotiating power and the consumer, on the other hand, is essentially forced to accept the conditions of the standard-form contract. Therefore, in the decided case of *Beadica 231 CC and Others v Trustees for the time being of the Oregon Trust*, according to the Constitutional Court's most recent ruling, a court may refuse to execute contractual obligations if doing so would be contrary to public policy, particularly if those requirements are perceived as operating unfairly, arbitrarily or excessively harshly.

The culture of standard-form contracts is monopolized by banks, insurance companies or businesses that sell goods in terms of credit agreements. Due to having little competition in those sectors, consumers are faced with the challenge of having no freedom to negotiate the contractual terms and end up being exposed to oppressive and exploitive terms in such contracts (Dlamini 2012: 59).

Patterson (2010: 369) points out that “terms that have not been individually negotiated are regarded as unfair” and go against the principle of *good faith* as it opens the door for the imbalance of rights and duties for the parties dealing with that particular contract. There are many benefits in using a standard-form contract in the business context, such as reduced transaction costs, greater certainty and reduction in agency costs. but one of the primary disadvantages of such standardized contracts for consumers is that businesses do not need to negotiate a new contract for every transaction. This puts huge amounts of stress on consumers because using standard-form contracts for every transaction may not be equally beneficial for them (Patterson 2010: 332).

Tromp (2014: 6) iterates that a contractual agreement entails the performance by one party to another and is fundamentally a promise or undertaking to deliver something in exchange for something else. Another consumer challenge relates to exemption clause, the sole purpose of an exemption clause is in essence a promise not to claim damages in the event of non-performance. In its simplest form, it may be observed as an undertaking to refrain from instituting legal action.

According to Tembe (2017: 62), a supplier who offers exemption clauses is in advantageous bargaining position and is able to enforce exceedingly broad and unreasonable exclusion terms using standard-form contracts, confident that the consumer will not even read them, let alone raise an objection. The author further adds that exemption clauses are sometimes written in small font and lengthy, boring lines, making them difficult for even a careful attorney to read.

2.9.5 Consumers not reading contracts and the influence of legal jargon

When consumers sign contracts without reading them, they are not aware of the terms to which they are agreeing, and suppliers may take advantage of this by adding unfavorable clauses in their contracts. Consumers are frequently forced into unfavorable contractual arrangements that they might not have accepted had they

read the terms and conditions, such as being unable to change or cancel hotel or vacation reservations; knowingly consenting to the disclosure of personal information to third parties; or being required to pay additional fees or charges (Elshout, Elsen, Leenheer, Loos and Luzak 2016: 16).

Once consumers are aware of the terms in a contract, they can consider such terms when making decisions. Consumers rarely read the "small print", so the law should aim to shield them from the negative effects of those unfair terms. It is not just font size that influences consumers not to read the contract; it is also relates to terms being shown using a poor layout, densely worded paragraphs and legalese, or frequently, just labeling a hypertext link "terms and conditions". Therefore, it is crucial for terms in small print to be accessible in order to be fair (Law Commission 2013: iii).

Furth-Matzkin (2019: 1037) submits that, in recognition of the fact that consumers often neglect to read the fine print before signing or clicking through standardized contracts, and that sellers repeatedly take advantage of consumers not reading by adding one-sided terms into the fine print, recent decades have witnessed a growing worldwide trend of increasing consumer protection through the adoption of stronger, more substantive interventions in consumer markets and contracts.

2.9.6 Too little information provided to consumers

Transparency requirements and consumer education are key regulatory weapons to empower consumers. However, even though consumers may value or demand comprehensive consumer information, they often fail to read, comprehend or act upon it. Therefore, the manner and structure in which information is conveyed to consumers is crucial (Helberger 2013: 5).

The source of the anxiety and trust problems that consumers experience while engaging in e-commerce transactions is a lack of information. In addition to this, the biggest problem that they are faced with, is the wrong or missing information on the internet sites (Durmaz and Kılınç 2017: 8). The authors further emphasis that in present times, it is more attractive to be in the virtual market than being in a real market because it allows suppliers to reach more people at a lower cost, without suffering from geographic difficulties. For this reason, the number of offerors on the internet rises daily. As this number increased, the virtual market started to include good and

bad suppliers. Now that items relating to the transaction are not tangible, consumers have to depend on the information that each supplier gives.

2.9.7 Consumers not aware of remedies available in the event of a breach of contract by the supplier

Where a party to a contract accepts to deliver goods or perform a service and fails to do so at the decided time, or delivers sub-standard goods, he/she will be in breach of the contract. In South African law, such forms of breach of contract are generally known as *mora debitoris* and positive mal-performance respectively (Fischer 2015: 2). The author adds that where a contracting party has breached a contract, it may justify the aggrieved party cancelling such contract.

Chin and Yusoff (2016: 142) state that a remedy is a method used to carry out a right, prevent a right from being violated, or make amends for it. In certain cases, where there is breach, damages may be claimed. However, where consumers are unaware of their rights and claim procedures, it affects their ability to defend themselves against dishonest vendors (Ishak 2012: 106).

Kuwakhedawal (2012: 1) sums up the plight of the consumer in this respect by stating that in this era of capitalism and globalization, when each supplier aims to maximize his profit, customers are frequently unaware of their rights. Hence, in order to achieve their goal, businesses take advantage of consumers' interests by overcharging, underweighing, selling low-quality items, deceiving them with false advertising, etc. The author adds that in order to prevent consumers from being taken advantage of, it is essential to raise consumer awareness.

2.9.8 Consumers being excluded from accessing a variety of goods and services

Historically, consumers from a disadvantaged background have faced challenges in accessing goods and services (Reddy 2012: 586). According to Schulte-Nolk, Zoll, Franaszczyk, Stefan, Barmscheid and Kubela (2013: 8), businesses have discriminatory marketing strategies that constitute a refusal to sell in certain areas due to the location they are in, which negatively affects the consumer's right to choose because they are offered a different selection of goods or services from those offered in better areas. The authors elaborate that the vulnerable consumer is left with a burden of having to pay more when physical delivery of the goods takes place.

Davis, Finney and Hartfree (2016: 24-26) state that vulnerable consumers struggle to equally access the financial market because of the expensive requirements in place before they can acquire goods and services, such as monthly instalment payment plans, being left behind when the market has the best deals and only the better-off group benefits. This also places the vulnerable consumer in a difficult position to make an informed decision.

Singh and Kumar (2020: 443) highlight different types of exploitation that vulnerable consumers face in rural areas, such as underweighted goods where goods are incorrectly weighted; goods having unreasonably high costs simply because there are less suppliers in those areas; goods being excessively reproduced in order to maintain an original item that compromises the quality standard a consumer is entitled to; and lastly, facing the lack of security and safety in consuming these goods or services provided, thereby creating a huge need for government intervention through consumer education about their rights.

Walsh (2009: 161) iterates that a consumer from a disadvantaged group who has established a relationship with the service provider in the market is likely to experience market discrimination by the employees of such a service provider and not pay attention to such acts or ignore such behaviour due to not being aware of what is the general treatment they are entitled to as consumers not separated by class or financial status.

2.9.9 The lack of awareness of consumer rights amongst socio-economically disadvantaged consumers

Kumar (2016: 339) is of the view that the need for consumer protection is very high due to the exploitation of consumers and the denial of consumer rights in the absence of protection measures. Therefore, creating awareness and motivating consumers concerning quality products will result in higher consumer understanding, which will then reduce or lower the exploitation that consumers face in society and in consumer markets.

In a study by Chiru (2017: 59400) in Manipur, a rural area in India with consumers who are classified as vulnerable consumers according to the Consumer Protection Act Bill of India at that time (which was adopted as the Consumer Protection Act 35 pf 2019), the researcher showed that over 50% of consumers in such rural areas in India did not

know or were unaware of their consumer rights under the consumer protection legislation, and only a quarter did know their rights. This clearly demonstrates that consumers in rural areas are not fully aware of consumer protection rights and legislation. Even programs that were directed at enhancing the knowledge of consumer protection legislation were not fully successful, and over 90% of consumers in that rural area in India have never attended such programs. These challenges are not limited to consumers in that country only.

In another study conducted by Njuguna, Oloko and Oyugi (2014: 13) in Nukuru, a rural area in Kenya, the researchers investigated the level of consumer rights awareness and the effects of consumer rights on consumerism in Kenya. The outcomes showed that most consumers were aware of their consumer rights but the majority of them struggled with the use of the protection mechanisms in place in the event of an infringement, which is why there is dire need for consumer education.

Nabirasool and Prabhakar (2014: 1) are of the view that for awareness to be achieved, the use of media can be an advantage because it can reach the vast populations of any country at the same time, whether they are in rural or urban areas.

2.9.10 Other challenges of SED consumers

Other challenges that consumers face in general and that are covered by the CPA include:

2.9.10.1 Bundling of goods

The problem that may affect consumers relates to suppliers bundling their goods, which may lead to a situation where a consumer is required to buy more than one product (or obtain a service) from the similar or nominated third-party supplier, where the consumer does not actually want to buy the second product (or obtain the service) from the supplier (Giles 2020: 1).

2.9.10.2 Direct sales and the need to terminate contracts

The challenge that comes with modern advances in technology is that it allows consumers to be communicated with at any time during the day or at night via e-mail, SMS and telephone calls. A termination of a contract may result from a breach or that a proper performance has taken place through fulfillment. Therefore, there is a need

to control such communication by advertisers to enabling the consumer to restrict unwanted direct marketing (Gladwin and Civin 2014: 1).

2.9.10.3 False, misleading or deceptive misrepresentation by suppliers

Another consumer challenge based on unfairness relates to false, misleading or deceptive statements made by suppliers. de Langa (2020: 1), for instance, explains that many health supplement stores lure consumers with deceptive assertions, such as the promise of health, weight loss or increased strength, in an effort to get them to buy their goods. These advertisements frequently feature muscular males and slender women, which may mislead buyers.

2.9.10.4 Goods that are unsuitable for the purpose bought

According to Mutasa (2017: 50), Section 55 of the CPA mandates that items must be of good quality, in good working order, free from any flaws, and usable and durable for a reasonable amount of time, in addition to being reasonably acceptable for the purposes for which they are generally intended. The challenge appears to relate to goods being unfit for use, or they have defects, or they are not in a good working order, lack quality or do not correspond to the description. The author further states that in the decided case of *Botha v Venter*, the court defined what it means for goods to be in good working condition: It is defined in portions, first showing the word 'working' as meaning performance, execution or achievement and secondly, the words 'in working' as the point of being in operation or use. The term is also defined as the ability of the goods to fulfill a certain activity.

2.9.10.5 Receiving defective goods

According to Section 56 of the CPA, a product may be returned by the consumer to the provider within six months of delivery if it does not adhere to the required warranties. Strachan (2012: 1) points to certain consumer challenges experienced in this respect. For example, if a consumer bought a kettle and it stops functioning within six months, he/she must then visit the store again or it may happen that the consumer ends up not visiting the store because it requires money for them to go up and down trying to get a new kettle.

Dlamini (2012: 11) expresses the view that consumers are often exploited in two material respects, namely they are either exposed to unfair contract terms in the

providing of services or supplied with defective products which have the potential to cause serious bodily harm. Unfair trading practices are defined in the decided case of *Jevan Rensburg and Another v Minister of Trade and Industry and Another (2000)* as that which could negatively affect consumer relationships, unfairly prejudice consumers, or intentionally mislead consumers.

2.10 Selected common law principles and the impact on SED consumers

This section discusses the regulatory framework, which covers relevant aspects of the South African constitution, various common law principles and selected legislation, such as the CPA.

2.10.1 The *caveat subscriptor* principle

Govinden (2012: 11) explains that the Latin principle '*caveat subscriptor*' literally means 'Let the signatory beware'. It is a warning to contracting parties that they must make sure that they are aware or have read whatever document is presented to them before signing it. The phrase takes much of its motivation from the doctrine of freedom of contract, which is also referred to as the doctrine of contractual autonomy. Furthermore, in the decided case of *Healthcare Bpk v Strydom (2002)*, 6 SA 21 (SCA), the court ruled that when people sign documents, they are agreeing to whatever is written above their signatures, and the objectionable provisions will only be voided in cases where it can be proven that the person signing was deceived by the supplier (Woker 2010: 227).

Woker (2010: 224) states that this common law principle presents a problem in that consumers can only have a contract annulled if they can demonstrate that they were "provoked, through the unconscionable undermining of their independent judgment by the other, to contract when they would not otherwise have done so". Setting aside a contract due to improper influence is difficult. The author adds that this is typically only observed in situations where the parties have a special bond and one of them is abusing it.

Tennant and Mbele (2013: 1) state that the CPA, however, has shifted the supplier's responsibility for "understanding" the contract from the customer to the supplier. These clauses make it the supplier's responsibility to ensure that the consumer is aware of all the conditions of the contract, including his financial responsibilities. The authors

add that accordingly, the common law principle of *caveat subscriptor* still remains in existence.

2.10.2 Freedom to contract

Tromp (2014: v) explains that South African contract law offers parties the ability to decide who they want to enter a contract with, as well as the freedom to enter into a contract. Consent, good faith and the sanctity of contract are the basic elements for a legally binding contract. The author continues by saying that the contractual freedom of parties gives them the right to select the conditions of their agreement.

In the case of *Sasfin (Pty) Ltd v Beukes 1989 (1) SA 1 (A)*, the court found that, although public policy favours the greatest possible degree of contract freedom, "simple justice between man and man" should be upheld. The court also stated that if a contract is clearly illegal, unconscionable or excessively severe or oppressive, it may be declared against public policy (Stoop 2012: 36).

Pillay (2016: 2) states that the concept of a legally recognized principle known as "freedom of contract" links party autonomy to minimum government intervention. According to the *pacta sunt servanda* principle, obligations imposed by a contract must be upheld. Parties who enter into contractual agreements with the appropriate intent are therefore required to uphold the agreement.

Barnard and Naude (2008: 171) point out that the common law idea of freedom of contract is on an equal footing with all other rights since the Constitution does not disallow the existence of any other rights or freedoms recognized or affirmed by common law if they are consistent with it as confirmed by Section 39(3) of the Constitution.

2.10.3 The passing of risk principle

According to the "passing of the risk rule" in common law, a consumer who is a party to a consumer agreement is responsible for the accidental loss of goods as soon as the agreement is finalized. The delivery of the items is not required for this rule to apply. However, the seller is still liable for any negligent or deliberate loss involving such products (Tennant and Mbele 2013: 3).

2.10.4 The parole evidence rule

Weyers and Venter (2020: 4) posit that rule states that when parties to a contract reduce their agreement to paper, the document becomes the only source of the transaction, and no other evidence may be used to prove the terms of the contract. The South African courts abide by this rule when a scenario arises that one party to a contract turns to relying on specific verbal declarations outside of the written contract. The authors refer to the recent case of *Mike Ness Agencies CC t/a Pro mech Boreholes v Lourens ford Fruit Company (Pty) Ltd* (922/2018) [2019] ZASCA 159, which was before the Supreme Court of Appeal (SCA), where the Lourens Ford Fruit Company (Pty) Ltd (Lourens Ford) attempted to argue that it had verbally agreed to a certain additional term to an agreement which was concluded with Mike Ness Agencies CC t/a Pro mech Boreholes (Pro mech), and such term was not included in the written agreement between the two parties.

2.10.5 The voetstoots clause

Brown and Kruger (2020: 1) explain that a common law provision known as the "voetstoots clause" makes it possible for a party to opt out of an implied warranty in a contract by using this clause. The voetstoots clause therefore implies "what you see is what you get". When a buyer signs a contract accepting these conditions, they are agreeing to buy the product "as is" and gives up the right to sue the seller if a fault is found. The authors further elaborate that according to Section 55 of the CPA, a consumer has the right to receive property that is of good quality, in working order and free of any flaws, and that is fairly suitable for the use for which it is typically intended. Moreover, the CPA grants consumers the right to receive goods that are free of any flaws and puts them in a better position.

2.11 The Constitution and the protection of SED consumers

According to Fredman (2012: 8), the South African Constitution must be understood in the context of the recent history of apartheid. Section 9 of the Constitution sets out the right to equality which promotes equality and prohibits unfair discrimination on the grounds listed, such as race, gender, ethnic or social origin, etc. The author adds that although socio-economic disadvantage is not specifically mentioned as a ground of discrimination, the South African statutes aimed at promoting equality, cover the same

range of grounds, with the further possibility of extension to include socio-economic status.

One of the legal measures introduced as a way to safeguard the vulnerable was the Consumer Protection Act 68 of 2008 (hence forth referred to as the CPA). It introduces a new strategy for consumer protection in which the government levelled the playing field and established the National Consumer Commission as an agency with regulatory authority to get involved directly in routine business transactions in order to ensure service providers' and suppliers' compliance (Campbell and Logan 2011: 1).

The CPA, as social justice legislation, is one such piece of legislation which has aimed at the transformative constitutional aspiration to ignite and drive socio-economic changes in disadvantaged societies in South Africa. The Act highlights the position of the vulnerable party, for instance, the consumer in a sales contract, as well as how this vulnerability is directly related to the socio-economic position that the vulnerable person fills in the community (Baulinga and Nagtegaal 2015: 151). The need to give positive preference to disadvantaged groups has always been regarded as an essential element of equality (Fredman 2012: 9).

2.12 The Consumer Protection Act 68 of 2008

Theledi (2019: 1) maintains that the CPA establishes a solid legal framework that seeks to maintain a consumer market that is fair and accessible and accountable for the enjoyment of all consumers collectively. The Act aims to promote and advance the social and economic equality of consumers in South Africa. The Act also regulates both market practices and consumer contracts, and affords fundamental rights to consumers, such as the right to disclosure and information; the right to equality in the consumer market; the right to fair and honest dealings; and, most importantly, provides for supplier liability to consumers (Fitzroy 2011: 1).

Section 4(2) of the CPA demonstrates how important it is to advance the rights of vulnerable consumers. It provides that a court has the responsibility to advance the common law in a way that enhances the general realization and enjoyment of consumer rights, particularly those of vulnerable consumers. As a result, the court must interpret any provision of the Act that is thought to have more than one interpretation in a way that advances its goals, particularly the rights of vulnerable consumers (Jacobs, Stoop and van Niekerk 2010: 304).

This section examines those rights that affect socio-economically disadvantaged consumers and the provisions that suppliers need to adhere to in this respect.

A legal framework is also provided by Section 3 of the CPA in an effort to create a consumer market that is not only efficient, competent and long-lasting, but also accountable. It should be mentioned that one of the goals of the CPA is the protection of specific groups of vulnerable customers. Due to the fact that they make up a sizeable portion of South Africa's consumer market, the inclusion of these vulnerable groups is considered as essential (Barnard and Miscenic 2019: 116). The authors add that South Africa's legislature introduced the CPA in an effort to align consumer protection laws with both the Constitution and international treaties (Section 39 of the Constitution). This comprehensive piece of legislation affects both previously enacted laws and laws relating to South Africa's common law.

2.12.1 The CPA provisions that make specific reference to socio-economic disadvantage

The CPA, as social justice legislation, is one piece of legislation aimed at the transformative constitutional objective to ignite and drive socio-economic changes in needy societies in South Africa (Baulinga and Nagtegaal 2015: 151). This section will look at the provisions that specifically mention socio-economically disadvantaged consumers (hereafter SED).

2.12.2 The preamble to the Act and SED

The preamble to the CPA refers to the following:

It firstly acknowledges that “apartheid and discriminatory laws of the past have burdened the nation with unacceptably high levels of poverty, illiteracy and other forms of social and economic inequality”. And hence “it is necessary to develop and employ innovative means to—

- (a) fulfil the rights of historically disadvantaged persons and to promote their full participation as consumers;
- (b) protect the interests of all consumers, ensure accessible, transparent and efficient redress for consumers who are subjected to abuse or exploitation in the marketplace;
- and (c) to give effect to internationally recognized customer rights;

- promote and protect the economic interests of consumers;
- improve access to, and the quality of, information that is necessary so that consumers are able to make informed choices according to their individual wishes and needs;
- protect consumers from hazards to their well-being and safety;
- develop effective means of redress for consumers;
- promote and provide for consumer education, including education concerning the social and economic effects of consumer choices;
- facilitate the freedom of consumers to associate and form groups to advocate and promote their common interests; and
- promote consumer participation in decision-making processes concerning the marketplace and the interests of consumers.”

2.12.3 The purposes of the Consumer Protection Act and socio-economic disadvantage

In terms of Section 3 of the Consumer Protection Act, the purposes of the Act, amongst other things, are “to promote and advance the social and economic welfare of consumers” by:

- establishing a legal framework to establish a fair, accessible, and competent marketplace for consumers;
- lowering the barriers that disadvantaged consumers face when obtaining goods or services; protecting consumers from unfair trade practices;
- promoting responsible consumer behaviour, building consumer empowerment and providing an effective system of redress for consumers; and
- combining and restoring existing consumer protections (Banking Association South Africa 2021: 1).

The Act aims specifically to encourage the full involvement of socio-economically disadvantaged persons as consumers and to safeguard underprivileged, vulnerable and historically disadvantaged customers. Additionally, it wants to enforce

"internationally recognized customer rights" and to provide open "redress" for customers who have been "abused or exploited in the marketplace". (Melville 2011:).

The paragraph referred to above makes it abundantly evident that Section 3 of the CPA, which outlines the Act's objective, serves to protect and advance the social and economic well-being of consumers, particularly those who are vulnerable. Section 15 outlines additional responsibilities for the National Consumer Commission to ensure that the Act's goals are achieved. The Commission is required to undertake research and provide recommendations for consumer-related policies in order to advance the goals of the Act. (Jacobs, Stoop and van Niekerk 2010: 304).

Mupungavanhu (2015: 134) expresses the view that the CPA provisions go further than the existing common law remedies and that the Act has introduced mechanisms that are accessible and informal resolution for consumer disputes such as: an aggrieved consumer can approach an Ombud, the consumer courts, the National Consumer Commission or the National Consumer Tribunal to obtain relief. The author further states that the South African legal system allows for consumers to also enjoy remedies provided by common law, which is a one of a kind legislative intervention in the history of South African law.

2.13 Ubuntu, the CPA and socio-economically disadvantaged consumers

Bauling and Nagtegaal (2015: 163) are of the view that two crucial aspects should be acknowledged when transformative constitutionalism and the law of contracts are considered simultaneously. Firstly, it should be recognized that the principles of Ubuntu should influence contract law and secondly, it should be recognized that contract law and consumer protection should influence the fight against poverty. The authors further state that the South African Constitution is informed by a sense of communality and Ubuntu. The authors elaborate that the minority judgment in the recent decision of the Constitutional Court in *Ever Fresh Market Virginia (Pty) Ltd v Shoprite Checkers (Pty) Ltd (2011)* points to the significance of the relationship between Ubuntu's focus on the worth of the community and the principle of good faith in contractual dealings.

Furthermore, in the decided case of *Bhasin v Hrynew (2014)*, it is explained further a: "A fundamental organizing concept of contract law is good faith as contractual

performance, which establishes a general standard of justice". In carrying out contractual commitments, one has a responsibility to act honestly.

Hoeben, Hayers and Domingos (2014: 1) state that the concept of good faith is not a new trend as it has always been part of South African common law. According to some definitions, acting in good faith involves treating others with simple justice and respecting their contractual interests. The authors add that the Supreme Court of Appeal and its forerunner, the Appellate Division, have both made it clear that good faith is not a prerequisite for a contract on its own. The Constitutional Court has endeavoured to give substance and knowledge to the ideas of good faith and fairness through interpreting and attempting to apply the concept and constitutional value of 'Ubuntu'.

Du Plessis (2019: 23-24) is of the view that Ubuntu was announced into the formal law as a healing tool that could be used to correct the discriminations of the past. From this discussion, it becomes clear that the value of Ubuntu supports the protection of SED consumers.

2.13.1 Measures by which the CPA can improve to address the challenges of the consumer

One of the purposes of the CPA, as stated in Section 3b(i) is minimizing and resolving any obstacles consumers with low incomes or those who belong to communities with low incomes face when trying to obtain any supply of goods or services (CPA 2009: 32). Since many disadvantaged consumers have challenges with understanding the language and terms included in contracts, the CPA should clearly set out a test to determine whether the plain language requirement has been fulfilled. For instance, there should be visible CPA offices set up inside stores; information about consumer rights and protection should be frequently advertised; and there should also be more external officials who do regular checks. Further, consumer information should be made available in all 11 official languages; and staff members should be trained to pay special attention to vulnerable consumers.

As set out in the preamble, one of the reasons why the CPA was enacted was to "promote and provide for consumer education, including education concerning the social and economic effects of consumer choices". A number of measures as to how

consumers can be educated about their rights have been highlighted in the findings section and recommendations. These include educating vulnerable consumers about their rights; establishing informal forums in communities that will protect and enforce consumer rights; and doing frequent displays of consumer rights and remedies in stores so that consumers can view them.

The general tenet of the UN Consumer Protection Guidelines is that Member States must take special care to ensure that consumer protection measures are implemented for the advantage of all segments of the population, especially the rural population and those who are poor. The Consumer Protection Act 68 of 2008 in South Africa seeks to advance the welfare of those with low incomes, children, seniors, people living in remote regions, and those with restricted abilities (UNCTAD 2021: 7). In terms of Section 86 of the CPA, the Minister may assign a commission to investigate contraventions of the Act of any matter with respect to the purposes of the Act (which includes protecting vulnerable consumers). In terms of Section 88(1) of the CPA, the Commissioner of the National Consumer Commission can appoint inspectors to perform functions in terms of the Act.

2.14 The Consumer Protection Act and the contractual challenges of SED consumers

With the CPA, in addition to being protected in the provision of goods and services and the completion of contracts, consumers are given core fundamental rights with regard to the promotion and marketing of the goods and services they purchase. In fact, the Act protects consumers by upholding eight essential fundamental rights (Barnard 2015: 223-224). The CPA was established with the intention of promoting ethical business conduct; safeguarding consumers from unethical, unfair, unreasonable, unjust and other illegal business practices; as well as deceptive, misleading, unfair or fraudulent behaviour. Additionally, it tries to implement certain consumer rights (Woker 2010: 224).

The protection of socio-economically disadvantaged (SED) consumers, which is one group of vulnerable consumers, is this study's main concern. These fundamental rights include the rights to equality, privacy, choice, disclosure of information, fair and honest business dealings, fair and reasonable terms and conditions, and fair value, good

quality and safety (CPA 2008: Chapter 2). The discussion below aims to illustrate the protection provided to such customers in terms of selected fundamental rights.

2.14.1 Suppliers not using plain language in drafting contracts, low literacy levels of consumers and the consumer right to information in plain and understandable language

As indicated above, SED consumers, partly because of low literacy levels, may have challenges with understanding the language used in contracts because it has a lot of legal jargon and is very hard to understand in order to mitigate the problem, the CPA includes the protection of consumers with low literacy levels as one of the vulnerable groups (Section 3 of the Act; Kapur 2011: 2). Reddy and Rampersad (2012: 7411) state that a significant issue in South Africa is that customers rarely read important clauses before signing a contract. Consumers frequently engage in such behaviour because they care more about having the product in their hands than they do about understanding its effects. The authors add that there is also the problem of the disadvantaged (SED) consumers', whose literacy levels are so poor that they cannot understand the content of the contracts that they conclude.

According to Louw (2020:1), the right to plain language in drafting contracts has been adopted in the country's consumer-centered laws, which are the National Credit Act 34 of 2005 and the CPA. These state that suppliers no longer have a choice when it comes to plain language usage in their documents or consumer contracts. They have an obligation to provide these documents in a plain language that any ordinary consumer can comprehend (Nabeela 2019: 55).

Richards (2019: 69) states that, according to Section 22(2) of the CPA, plain language is any form of writing that makes it easy for a typical consumer to understand the content, significance and implications of a document, notification or visual depiction without exerting undue mental effort. The author further elaborates that the terminology, sentence structure, and use of any illustrations, examples, headings or other tools to aid in reading and understanding such notice or documentation are all things to consider when dealing with the plain language requirement under Section 22(2). In the case of *Western Bank Ltd V Sparta Construction* (1975), the court observed that it is improper to draft a standard-form contract without ensuring

adequate protection of the weaker party. For the purposes of this study, SED customers would in fact be considered the weaker party when interacting with a corporate organization.

Kirby (2011: 1) comments that, as stated in Section 22 of the Act, there are a number of factors or elements connected with legally approved standards for clear and comprehensible language, which is all well and good if consumers can understand what it all means.

2.14.2 Pre-drafted terms that are not equally negotiated and the right to fair, just and reasonable terms and conditions

As indicated above, Aniol (2016: 1) affirms that in cases when a contract is unfair, unjust or unreasonable, difficulties may arise because of the obvious disparity in negotiating power between suppliers and consumers. It is frequently discovered to be too biased in favor of the supplier. With SED consumers, these difficulties are clearly reflected.

According to Ukwueze (2016: 6), the consumer and the supplier have unequal bargaining power; disproportional knowledge of the features and actual manufacturing of the goods and services; and the supplier is more financially secure than the consumer. The CPA recognizes the constitutional value of Ubuntu by requiring fair and honest transactions between the service provider and the customer in Section 41. During the negotiations of contractual terms, there is always social and economic pressure imposed on the weaker party, thus opening the door for exploitation and the use of unreasonable terms which have a detrimental effect on consumers. They then end up agreeing to such terms which limit their contractual freedom, or abuse or take advantage of their position (Fritz 2014: 8).

Contract provisions that are unfair, irrational or unjust are covered by CPA Section 48(1). It states that a supplier is prohibited from making an offer to deliver goods or services, or from entering into a contract to do so, on conditions that are unfair, unreasonable or unjust, or for a price that is unfair, unreasonable or unjust. This prohibition also applies to the marketing of goods or services, or negotiating such transaction or agreement where an agreement requires a consumer to waive any right, assume any obligation or waive any liability of the supplier on terms that are unfair, unreasonable or unjust (Kapdi, Sulaiman, Twala and Achmat 2016:1). The

Competition and Consumer Protection Commission (2020: 3) reminds one, however, that in reality, SED consumers are more likely to be the weaker or more vulnerable side in the agreement, and they may not have the chance to discuss the terms before signing the document. The author adds that the difficulty that many such consumers may run into is that they understandably believe that all terms of a contract signify "the law" and, as a result, may not feel encouraged to seek any change to terms which they are not happy with. Additionally, consumers in general may not understand or be aware of the exact legal status of the terms to which they are agreeing.

2.14.3 Freedom of contract and the Consumer Protection Act

The general pre-requisites for a legally enforceable agreement are good faith and the sanctity of contract, and parties are free to enter into a contract with whoever they choose under South African law. The contractual flexibility of the parties also gives them the opportunity to select the conditions of their agreement, one of which is the freedom to introduce exemption clauses (Tromp 2014: v). Even though the freedom to contract exists, consumers still have no power to negotiate the terms of the contract since businesses often use standard-term contract forms. The problem may be especially significant with SED consumers who may not have the background, educational and literacy levels to enable them to negotiate terms or question their unfairness. As a result of this lack of bargaining power consumers may fail to read the terms as they will be bound by it any way. Moreover, the way in which contracts are drafted may discourage consumers from reading them (Reddy 2012: 593).

Tembe (2017: 7) states that standard-form contracts' provisions appear to be unregulated by South African law, and the freedom and sanctity of contract rule is upheld. The author adds that, despite the fine print, unclear legalese contributes to the problem of making it challenging for the typical consumer to evaluate the complexity of the offer. As a result, consumers can discover that they are obligated by clauses that they were not aware of before signing the contract.

Fritz (2014: 4) observes that although the CPA was created with noble purposes, such as safe-guarding the weak from abuse and dangerous products, there is still a problem as to how these ideals will be implemented. The author further mentions that the CPA does not seem to be the solution to the issue of a power imbalance between contracting parties.

2.14.4 The right to fair, just, and reasonable terms

de la Ray (2020: 1) points out that every contract has terms and conditions that make it a contract, and it is clear from these terms that such agreement generally favours the supplier or any other party over the consumer. The author adds that the agreement's terms are often excessively unfavourable to the consumer, and that consumers may rely on a false or misleading statement and suffer as a result. In addition, the conditions may be unfair to the consumer as they were not explicitly brought to their attention.

Section 48 of the CPA makes it clear that the supplier is prohibited from supplying products under conditions that are unfair, unreasonable or unjust. Furthermore, a "fair" price must be disclosed, and the terms must be "fair" and reasonable. However, the term "fair" is not defined. Where agreements are one-sided and benefit a party other than the consumer or that are founded on false information, they are considered to be unfair (Melville 2011: 1).

Naude (2009: 505) comments that the inclusion of provisions on unfair contract terms in the new CPA is welcomed. However, the provisions on unfair contract terms in the Act are lacking in some ways. The author adds that the problems faced by consumers especially the SED, call for legislative protection but have not been adequately addressed.

2.14.5 Prohibition of unconscionable conduct on the part of suppliers

Suppliers might prey on consumers who are weak. When a vendor induces a customer to enter into a deal by preying on their vulnerability to medical or mental sickness, ignorance, illiteracy or the general state of their environment or surroundings, this is an example of an unconscionable act (Anon 2021: 1). Section 40 provides that a supplier is prohibited from using physical force, intimidation or undue influence against a customer when marketing or providing products or services to the customer. When negotiating a contract for the sale of goods or services, the provider is prohibited from engaging in unethical behaviour, including demanding payment or retrieving products (Rheeders 2015: 3).

This means that unless the provider can prove that the bundled goods or services would be more beneficial to the consumer, it is basically against the law for suppliers

to "compel" customers to purchase packaged goods or services on a "all or nothing" basis. According to Section 13 of the CPA, a supplier cannot require a consumer to acquire any more specified products or services from the same provider to receive specific goods or services (Poole 2020: 1).

Jacobs *et al.* (2010: 360) points out that the Act (Section 51(1)) of the CPA forbids a supplier from requiring the customer to give ownership to their bank card or identification document or reveal their pin or other account access number to the supplier.

Lugomo (2013: 46) is of the view the list in Section 40 of the CPA is not exhaustive. According to this section's interpretation, it would be illegal to use a stronger position abusively against a consumer in order to obtain a result that is against the consumer's interests and in the supplier's favour.

According to the Act, it is likewise unethical for suppliers to profit from a consumer's inability to safe-guard their own interests, resulting from a physical or mental impairment, illiteracy, ignorance, inability to understand the wording of an agreement, or other such condition. This further broadens consumer protection in relation to the unconscionable conduct provision. Hence, the Act imposes a significant responsibility on suppliers to make sure that customers comprehend contracts (Jacobs *et al.* 2010: 347).

2.14.6 Supplier obligations with respect to exemption clauses; additional agreements and assumption of risk

SED consumers may face challenges in terms of exemption clauses, or instances where the consumer is bound to enter into additional agreements, or even where the supplier limits his/her liability for breach, for instance, if the goods are defective (Tembe 2017: 5).

Exemption clauses are terms that are not in favour of the disadvantaged party as it allows or gives the supplier the freedom of being excluded from liability for a breach. South African law has introduced ways that now favour the weaker party when this right is enforced (Nkabinde 2016: 16). The author adds that in the decided case, *Afrox Healthcare Bpk v Strydom*, the court ruled that exemption clauses may be prohibited from consumer contracts on the basis that doing so would be against the public

interest. Where such clauses threaten to harm SED consumers, it could be construed as being against the public interest. Therefore, before the consumer enters into an agreement or before engaging in risky activity, they must be made aware through a notice of any clause that restricts or limits the supplier's liability or creates a risk assumption by the consumer in terms of Section 48 of the Act (Campbell and Logan 2011: 81).

Hence, where a provision limits the liability of the supplier against consumers (including those with SED), special obligations are placed on the supplier by the Act in order to protect the consumer and promote fairness. Therefore, in the case of *Naidoo vs Birchwood Hotel*, the court held that a clause excluding a party's liability for negligence that results in another person's death would probably not withstand a constitutional challenge (Aniol 2016: 29).

2.14.7 Consumers not reading contracts and the influence of legal jargon

As indicated above, consumers, including those from a disadvantaged background, rarely read the contracts that are offered. This failure is said to lead to problems, such as the consumer unknowingly consenting to the legal relationship that a particular contract creates. Section 22 of the CPA places plain language obligations on the supplier (Ayres and Schwartz 2014: 549). The author adds that the CPA therefore attempts to make businesses create a real opportunity for consumers to read the contract, so firms cannot enforce terms that are hidden in fine print or written in ambiguous language.

Munnick (2015: 7) submits that there are many benefits when using plain language in legal and other documents that consumers in general enjoy. These include getting the message across in a shorter period of time; and more people understanding the document that is written in plain language, which leads to eliminating the possibility of having a misunderstanding or not even knowing what is required from them. The author adds that when documents can be understood by consumers in most cases, they will do exactly what is required from them.

Although Section 22 has set the benchmark for a new revolutionary consumer drafting in South Africa (Munnick 2015: 34), the South African marketplace has not yet seen a positive acceptance of this requirement. Nevertheless, the SED consumers will greatly benefit from this legislative intervention.

2.14.8 Discriminatory treatment and the right not to be unfairly discriminated in the consumer market

According to Schulte-Nolk, Zoll, Franaszczyk, Stefan, Barmscheid and Kubela (2013: 8), businesses use discriminatory marketing tactics that essentially amount to refusing to sell in certain areas due to their location, or they are presented with a different selection of goods or services than those offered in elite areas. The authors add that when physical delivery is made to the vulnerable consumers, they have the burden of having to pay extra and such practices are discriminatory. In addition, Judith (2013: 1-2) is of the view that, in order to improve pricing and advertising methods, suppliers and retail firms are continually updating their efforts to exploit customer data. One of the many price discrimination techniques is the innovation that allows businesses to charge various prices for the same or similar products, or the "retail revolution". SED consumers may be particularly harmed by these tactics. For instance, it is now increasingly typical for merchants, credit card providers and travel agencies to target offers and discounts at customers based on their browsing habits and geographic location.

The CPA makes it compulsory for suppliers not to discriminate between consumers, and to protect vulnerable consumers (Mohamed, Reddy and Naidoo 2017: 42). It has to be remembered that the purpose of the Act is to protect and advance the interests of all consumers (South Africa, Department of Trade and Industry 2009: 2).

Protection from discriminatory marketing is addressed under Section 8 of the CPA. The right to equality guaranteed by Section 9 of the Constitution can be considered as being supplemented by the right to equality in the marketplace as provided for by the CPA (Ukwueze 2016: 17). According to Section 8(1)(a)-(g), a provider of goods or services is not allowed to unfairly deny access to any person or group of people to any goods or services they offer, or charge different prices for any goods or services to any person or group of people (Barnard and Kok 2015: 2).

Barnard and Kok (2015: 2) elaborate that a seller is not allowed to unfairly choose certain areas, neighborhoods or market niches for the exclusive or preferential delivery of any products or services. Receiving any of the supplier's goods or services may not exclude certain communities or market sectors. van Schalkwyk (2014: 26) iterates that

Section 8 prohibits retailers from limiting the consumer's access to goods and services (CPA, 2008:40).

Retailers may thus not provide different consumers different access, different prices or different quality items, or grant them special treatment or priority when purchasing goods or services. Given the history of racial and gender discrimination against consumers, this is absolutely crucial (Rampersad and Reddy 2012: 7407). Clearly then, if a supplier discriminates against SED communities in terms of access to goods or services, or excludes them from certain promotional offers or discounts, this would be a violation of the CPA provisions mentioned. Campbell and Logan (2011: 32) state that where this right has been violated, the offended consumer or consumer protection organization may bring legal action before an equality court or register a complaint with the National Consumer Commission. If legal action is taken through the National Consumer Commission, the Commission is required to look into the complaint to see if it is legitimate, and if so, to submit it to the equality court for judgement.

According to Baulinga and Nagtegaal (2015: 160), in an oppressed South African society and a legal system where transformative constitutionalism is an entitlement, legal scholars have a responsibility to evaluate the function of the Constitution and its vital potential to bring about transformation on a socio-economic front. The authors add that according to Section 9 of the Bill of Rights, in order to protect those who have been unfairly discriminated against, both legal and non-legally measures must be taken. Equality encompasses the full and equal enjoyment of all rights.

2.14.9 The expensive process of contract overview and access to justice

Everyone has the right to equal protection and benefit of the law, according to Section 9(1) of the South African Constitution (Fredman 2013: 21). In terms of Section 69 of the CPA, various dispute mechanisms are available to the consumer as a means to obtain justice. According to Nabeela (2019: 66), they can do so by referring the matter to tribunal, the relevant Ombud, or a consumer court or any other alternative dispute mechanism. Only if all the mechanisms have been exhausted can the consumer proceed with the matter to court. The author referred to the decided case, *Joyroy 4440 cc t/a Ubuntu Procurement v. Potgieter N.O. and Another* (2016), where the applicant had not utilized all other options before turning to civil court, hence the court declined

to entertain the request for a refund of the purchase price. In reality, this raises the cost of access to justice for the consumer.

De Stadler (2016: 17) points out that the application of the CPA and the protection it affords goes beyond looking after the vulnerability of a consumer, but that it should make remedies available in circumstances where a consumer is having restricted access. Despite these provisions, consumers, especially those from a disadvantaged background, face challenges in accessing justice. The author also points to the expensive legal costs that consumers have to bear in order for them to have access to justice, which is why they always opt to settle any dispute in an informal manner by approaching the supplier directly instead of taking the longer route of redress. In the case of *Ngoza v Roque in the NCT*, it was indicated that one of the goals of the consumer protection legislation was that because of the difficulties consumers face when they have to access justice, it is expensive and intimidating to them and most of them do not know how to launch such legal proceedings (Scott 2018: 33).

Woker (2010: 230) submits that consumers who challenge businesses with problems frequently discover that they are simply disregarded because consumers and businesses typically have unequal bargaining power. Consumers rely on the information that suppliers provide them with. Additionally, consumers lack the financial resources to defend their rights because litigation is very expensive and it does not make financial sense for a poor consumer to take the matter to court.

Furthermore, Kaashifa (2018: 3) iterates that consumers who are vulnerable have problems in accessing the redress mechanisms put in place for their protection. Therefore, accessing a redress system that is less expensive, less time-consuming and easy to understand by any ordinary consumer is of high importance.

Patterson (2010: 346) outlines that it is not that consumers are not aware of the need to carefully review the contract presented to them before signing, but that is because of the financial burden that they must deal with that they choose not to. As it is very expensive to seek legal opinion, they choose rather to sign and hope that nothing in the contract will be detrimental towards them. A national consumer survey conducted before the CPA was introduced showed that consumers who were mainly disadvantaged and from rural communities were unfamiliar with their consumer rights

(Booyesen 2011: 11). Clearly, access to justice on consumer issues may not be as straightforward or easily available for SED communities as it would be for others.

2.14.10 Too little information provided and the consumer right to disclosure and information

Du Plessis (2013: 227) states that traditionally, contract law assumed that the parties have discussed the terms of the contract and are on an equal footing during discussions (as suggested by the common law principle of Freedom of Contract). In reality, this is generally not true, as businesses use standard contracts that benefit them and are not open to negotiation. The author adds that common law remedies to address unfair contract terms were not adequate. Furthermore, previous judicial control in South Africa was limited to a few terms in certain contracts and contained in different pieces of legislation which were uncoordinated; which consumers were not aware of; and which did not provide decent protection for them.

In terms of Section 22, suppliers are mandated to display product and service pricing where consumers can see them. In order to avoid any "hidden" expenses, consumers have the right to ask for the unit cost of goods and services. Consumers also have the right to purchase the goods or services at the listed pricing where suppliers neglect to include the duration of any promotions in catalogues or brochures. Furthermore, customers have the right to insist on paying the lesser price for goods with two different prices (Department of Trade and Industry 2011: 13).

Munnick (2015: 16) submits that in terms of Section 22, the CPA does not grant the right of receiving consumer contracts in the 11 official languages of South Africa since a majority of South Africans speak English as their second or third language. The author further states that this poses a challenge for consumers as there are many factors that affect consumers in correctly understanding the content written in English, such as level of education, social status (poor or rich) and geographical area that they come from (more developed areas such as cities or remote areas) as contemplated in Section 3 of the Act.

The CPA Regulation requires that trade descriptions of goods traded must meet the requirements of Section 22, namely, trade descriptions must be in plain and understandable language and must be applied to the goods in a visible and legible

manner so that consumers can make informed decisions (Campbell and Logan 2011: 49).

Kamanga (2017: 42) is of the view that for consumers in general, and vulnerable consumers in particular, product labelling serves the purpose of being a communication tool and gives them access to certain product information so that they will be able to make knowledgeable decisions and choices before they commit to any contractual agreements or any transactions.

2.15 CPA provisions addressing other consumer challenges

The purpose of consumer protection law is to safeguard consumers from harm or injury and to give them recourse if they do so in their dealings with producers or suppliers of products and services. The CPA sets out a number of consumer rights, some of which were discussed above. Four other rights are discussed below with reference to the challenges faced by SED consumers. The next section examines the consumer's right to choose, the right to privacy, the right to fair and honest dealings and the right to fair value good, quality and safety.

2.15.1 The right to choose

van Schalkwyk (2014: 27-28) states that, in accordance with Section 13, customers have the freedom to compare prices and shop around before making a purchase (CPA, 2008:46). Retailers are not allowed to force customers to accept services they do not want as "bundling" is not allowed. The author also states that when direct marketing is employed, consumers cannot be coerced into signing contracts with vendors. In accordance with Section 16, the buyer has a five-day cooling-off period in which to choose to end a contract without imposing any obligations on the seller (such as penalties) (CPA, 2008:52).

Bregman and Moodley (2014: 1) clarifies that the consumer has five business days (excluding weekends and public holidays) after signing the contract to withdraw from it. They must return any products received and send written notice of termination and the credit provider must refund any deposit paid within seven days.

2.15.2. The right to privacy

Section 11 of the Act relating to the consumer's right to privacy, is the shortest section of the CPA. It protects the consumer from unsolicited and unwelcomed marketing. van

Schalkwyk (2014: 26) comments that although other countries also have laws governing advertising practices, especially spam, South Africans enjoy protection that is superior to most other countries.

Ukwueze (2016: 20) states that with modern telecommunication, unsolicited marketing communications in the form of texts, calls, letters and "spam" mails have increased significantly. The CPA gives the consumer the option to block the relevant supplier or marketer in order to stop receiving such unsolicited direct marketing, and once the consumer has used this option against a supplier or marketer, the blocked supplier is not permitted to send any more unwanted direct marketing communications. The author adds that doing so would violate the constitution and the relevant legislative provisions protecting individuals' right to privacy.

Meiring, Kirby and Bortz (2012: 2) state that, according to the CPA (Section 11), every person has the right to privacy, which includes the right to refuse marketing; which forces suppliers to stop; and the right to pre-emptively block any approach or communication to that person if it is made primarily for direct marketing purposes. This affirms the consumer's right to limit unwanted direct marketing.

2.15.3 The right to fair and honest dealings

A further challenge experienced by consumers is that suppliers may sometimes make false, misleading or deceptive representations. Vulnerable or disadvantaged customers may be particularly susceptible to unfair business practices (Australian Consumer Commission 2014: 3). In this respect, Kamanga (2017: 33-34) indicates that Section 41 of the CPA, when read in conjunction with Section 29 of the CPA, which addresses such false, misleading or deceptive misrepresentation, explains the consumer's entitlement to fair and honest interactions. It is against the law for suppliers to express or imply to customers any false or misleading information about important aspects of the transaction, whether directly or indirectly. The author further elaborates that in terms of Section 44 of the CPA, the consumer has a right to assume that the supplier is entitled to sell goods as this is very important, especially when dealing with harmful goods.

2.15.4 The right to fair value, good, quality and safety

Naude (2011: 339) points out that according to Section 55(2), consumers "have a right to acquire goods that are fairly adequate for the purposes for which they are normally intended". Such goods must be of high quality and free from flaws. However, the consumer has the right to refuse to accept items that do not meet these standards under the CPA. As a result, unlike in common law, the consumer would no longer need to demonstrate that the goods were unfit for the intended purpose at the time the contract was made.

In the decided case of *Gannet Manufacturing Co (Pty) Ltd v Postaflex (Pty) Ltd (1981)*, the court identified "quality" as the level of excellence that a thing possesses. A product's appearance may also be a factor in determining quality. 'Good' denotes attractive, superior or even suitable (Mutasa 2017: 49).

Owing to poverty, consumers may be tempted by unscrupulous suppliers to purchase poor quality goods or goods that may not be safe, such as food products that are about to expire or have already expired. Consumers with low incomes may be more likely to pursue promises of lower prices, but may suffer financial consequences if the claims are vague, inaccurate or false. Additionally, consumers in remote places could be forced to accept unfavorable terms due to a lack of options (Australian Consumer Commission 2014: 2).

Abrahams and Gross (2019: 1) state that according to Section 55(2), all things must be of good quality; reasonably "fit for the purpose for which they are generally intended", and devoid of any flaws. The products must last a fair amount of time and be usable. The author adds that the presence of a latent flaw indicates that the product does not meet the quality standards specified in the sales agreement. According to section 56, the consumer has the choice of a refund, a replacement, or a repair of the products. This can be seen as an implied warranty as well.

Consumer contracts cannot exclude certain implied terms that are included in all sales contracts for goods. Specifically, items must correspond to what was described and be of acceptable quality. Quality encompasses appearance and finish, durability and fitness for all uses for which commodities of that kind are typically intended (Nadin 2017: 1).

Maharaj (2019:2) states that although there are common law remedies for products with a latent defect that consumers may be able to use, such remedies are relatively limited and may be prohibited by the contract. The author adds that the common law offers very little protection to consumers for inferior or harmful goods and services.

2.16 The CPA and common law remedies for consumers

SED consumers may also face challenges relating to defective goods. This section elaborates on the common law principles related to sale agreements. These principles are the *essentialia* of sale (the minimum characteristics on which the parties must reach consensus) and the common law duties of both the buyer and the seller (Barnard 2014: 10). Contrary to common law remedies which require the consumer to demonstrate that a fault existed at the time the contract was signed, the CPA requires that consumers must show that they were entitled to receive products of the required quality (Mutasa 2017:30).

Maharaj (2019: 11) explains that a common law action known as the *Actio redhibitoria*, places the parties in the same situation as they would have been in had the contracts not been breached. The consumer may cancel the contract if the defect was significant enough that, had consumers known about it, such person would not have bought the product. In such cases, the customer is therefore entitled to the purchase price as well as any other reasonable costs incurred in connection with the goods.

Mutasa (2017: 16-17) explains that where the deficiency is not as serious, the consumer may make a claim for a reduction in the purchase price in terms of the *Actio quanti minoris*.

2.17 Conclusion

This chapter explored the consumer market in South Africa with a special focus on vulnerable consumers. Furthermore, it examined how such individuals' socio-economic circumstances prevent them from freely participating in the consumer market and benefiting from common law principles, consumer protection laws and other available remedies. The chapter provided a detailed view of the contractual challenges that SED consumers face when dealing with suppliers, and looked on specifically at CPA provisions for such challenges, which led to an overview of the impact of these provisions and how they cater for a general consumer more than a

vulnerable consumer who needs it most. Many of the studies (list some studies as references: e.g. Govender (2017); Du Plessis (2012); Aniol (2015); Fritz (2013); Govinden (2012). Focus on the challenges of ordinary consumers and their rights in terms of the CPA, and not on the challenges and rights of disadvantaged/vulnerable consumers. Although some studies did highlight vulnerable consumers, they focused on the elderly by Barnard (2015).

Hence, there is a paucity of literature available on the challenges of vulnerable consumers (and more specifically disadvantage consumers) and the impact that the CPA has with respect to such challenges, as well as on empirical studies conducted to support such findings

The next chapter will present the research methodology used in conducting this empirical study.

CHAPTER 3

RESEARCH METHODOLOGY

3.1 Introduction

Igwenagu (2016: 4) defines research methodology as an organized, theoretical study of the methods applied to a field of study or in simple terms, it is a guide to research and how it is conducted. Western Sydney University (2020: 1 – 2) defines research as the creation of new knowledge and the creative use of existing information to produce novel ideas, approaches and understandings.

In the previous chapter, the literature review examined the contractual challenges that socio-economically disadvantaged consumers face and the requisite implications of the CPA. This chapter sets out the research methodology used in this study in terms of the research design, target population and sample. It describes the research instrument and data collection and data analysis procedures, as well as how the reliability and validity of the study will be assessed.

3.2 Research design

Research design deals with a plan or structure of the research before data is collected or any analysis can begin. According to de Vaus (2001: 9), it deals with the logical sequence of the research. Akhtar (2016: 68 -72) states that research design is the "glue" that connects all of the study's foundations together. In other words, research design is a plan for the intended research endeavor. The author adds that a good research design is often described by adjectives like adaptable, accurate, well-organized, cost-effective and so on. Generally, the design which lessens biased evaluations is regarded as a good design.

Research design can be qualitative or quantitative, or take a mixed method approach. A qualitative design is a way of adopting an interpretation approach to data, or the studying of a particular case within the context and considering the subjective meaning to it. A quantitative design is more collaborative, with social surveys or experiments, as they show a numerical approach (de Vaus 2001: 11). Furthermore, qualitative research focuses on the social dimension of inquiry. In such investigations, the researcher conducts semi-structured interviews with subjects while using open-ended questions.

The quantitative research design, on the other hand, involves the use of statistical tools which save time and resources for the researcher through the use of a statistical packages. The process can be repeated a number of times and still produce the same results (Daniel 2016: 94). McCusker and Gunaydin (2015: 538) maintain that it is the best methodology for investigating broad topics pertaining to general human services; it saves a lot of time and money; it provides access to quantifiable information from a diverse field; and the statical tools used deliver valid data that can also be used to predict future trends.

Rahman (2017: 105) states that quantitative study characteristics include the use of standard questionnaires or experiments by the researcher in order to gather numerical data. Quantitative research takes place in a more structured environment that frequently gives the researcher control over the environment, study variables and research topics. The author continues by stating that quantitative research can be utilized to establish causal links between factors and results. Additionally, a hypothesis, or a description of the anticipated result, relationship, or expected consequence from the questions being researched, is also developed during the research process in this method.

This study adopted a quantitative design. The quantitative design is the most appropriate for this study because an advantage of this design is that a large amount of information can be collected, and the results are quickly obtainable (Kabir 2018: 211). Moore (2016: 3) states that a quantitative design uses mathematical models and statistics for analysis, which are presented in a numerical form. Furthermore, Lowhorn (2007 para. 2 line 3) explains that in a quantitative design, conclusions are established from studying a broader population and it is represented in the form of statistical presentations.

3.3 Survey research

According to Ponto (2015: 1), survey research is a type of research that allows for a variety of methods to select participants, gather data, and employ methods of instruments. It can be used in qualitative research strategies, such as using open-ended questions so that there can be a gathering of data from the sample through their answers. The author adds that surveys are frequently used in social research. This study will adopt the survey research method. Survey research is beneficial in

identifying the features of a large population, and no other method can effectively offer such a broad capability that, in the end, also ensures a more exact sample to collect focused data from, to draw conclusions and make educated judgments. (DeFranzo 2021: 1).

The most popular methods for gathering data in survey research are questionnaires and interviews, while other approaches can also be used. When questionnaires are employed, they can be completed by the respondent themselves or by a trained professional (Ponto 2015: 2). The benefits of using a questionnaire include the fact that survey research results in questionnaires being more practical; it offers a quick way to get results; it allows for easy analysis and visualization; and it is easy to compare responses (Debois 2019: 1).

In this study, data will be collected from consumers through questionnaires that will be self-administered. Should the Covid – 19 lockdown restrictions still be in force at the time that data is being collected, and to avoid the risk of face-to-face administration, an online survey will be used to collect data from the participants to ensure safety on both sides.

3.4 Target population and sample

3.4.1 Target population

Asiamah, Mensah and Oteng-Abayie (2017: 1609-1614) are of the view that depending on the study's focus, the "general population" is a group of people that possesses the necessary data. Wonk (2017: 1) defines a target population as the chosen group of persons to whom the researcher is interested in applying the study's findings. Dahlmeyer (2020: 1) explains it as the complete population of persons from which a sample could be drawn, with a sample being the overall population of people involved in the investigation.

The target population for this study is all individuals over the age of eighteen in the Illovo Township of Bhekulwandle, on the south coast of KZN. Although the CPA does not specifically refer to disadvantaged consumers, it does refer to vulnerable consumers. Two of the categories listed to show vulnerability are firstly, low-income consumers and secondly, persons whose ability to read and comprehend is limited by reason of low literacy or limited fluency in the language

(Section 3(1)(b)). Hence, these two factors were considered when identifying the target population.

Pernaggger and Godehart (2007: 2-3) define a “township” as a term that has no formal definition but is generally understood to refer to the under-developed, typically municipal, residential areas that were designated as "townships" during the Apartheid era. All are characterized by a lack of community facilities and commercial investment, high unemployment, low household incomes and poverty. Therefore, Illovo Township was chosen as the research area, as it meets the criteria mentioned with respect to “disadvantaged consumers”.

3.4.2 Sample selection method

A sample is a portion taken from the whole population or a particular sampling frame that can be used to infer information about the population at large or to make generalizations. Probability sampling and non-probability sampling are the two types of sampling; the former provides every member of the population an equal chance of being included in the latter (Taherdoost 2016: 20).

Mesa, Chica, Duquia, Bonamigo and Bastos (2016: 1) further explain that, without a sound sampling plan, the estimates drawn from the study may be biased. The sampling procedure may have an impact on the sample size approximation. The method used to select people or sampling units from the sample frame is known as the sampling strategy, and it must be specified beforehand.

In the context of probability sampling, all units of the target population have a non-zero probability of selectin, meaning that all participants in the target population are equally likely to be selected in the study (Mesa *et al.* 2016: 328).

There are different types of probability sampling, such as simple random sampling and systematic random sampling. Gaille (2020: 1) explains systematic sampling is a sort of probability sampling that selects participants from a broader population at a random beginning point. Participants are nominated from pre-defined intervals from a ranked list of participants. It establishes a sampling group that yields data for researchers to assess using specified, regular intervals. The author adds that each interval is computed by dividing the population size by the desired sample size. This study adopted probability sampling method, namely the systematic

sampling method. According to Taherdoost (2016: 21), this is where every n^{th} case after a random start is chosen. In this case, for example, choosing every third house on the street.

Gaille (2021: 2) further explains that one of this sampling method's benefits is that, thanks to its structure, researchers may quickly develop, analyse and conduct samples when utilizing it. Secondly, it lessens the chance that the information will be biased, which means that other probability sampling techniques run a significant danger of creating highly biased clusters, even when researchers take precautions to avoid this problem. Since the process of selection is at a set distance between each participant, the systematic sampling technique creates an advantage in this situation. Lastly, it provides a barrier against favouritism in the data collection process while also generating the benefits of randomized selection. This means that researchers have no control over who is chosen for systematic sampling. Additionally, the author notes that there is little chance of data tampering occurring during the latter data-collection process.

3.4.3 Inclusion and exclusion criteria

The inclusion criteria are: For respondents to be selected, they must be residing in the Illovo Township of Bhekulwandle, and they must be eighteen years or older. The exclusion criteria comprises of respondents who will be excluded if they do not live in the Illovo Township of Bhekulwandle and if they are under the age of eighteen years.

3.4.4 Sample size

According to Ajay and Micah (2014: 3), sampling is the process of choosing a portion of a population to estimate the characteristics of the entire population. Faster data assembly and cheaper cost are sampling's two key benefits as each observation counts one or more attributes of apparent subjects who can be identified as distinct individuals. As a result, sampling is frequently employed to acquire data about a population. The authors go on to say that the sample size is crucial because of how it affects numerical power. Numerical power is the chance that a statistical test will indicate a significant difference when there truly is one.

The estimated population of the Bhekulwandle area in Illovo Township is 4,859 (eThekweni Metropolitan Municipality 2011). According to the data available, there are 1091 households in the Bhekulwandle area (Frith 2011). To ensure that the sample is representative, the systematic sampling method will be used, for which a sampling interval needs to be calculated. The sampling interval for the study is obtained by dividing the number of households in the area by the number of households required (Maree 2010: 174). The sample size table (Table 10.3) in Sekaran and Bougie (2010: 295-296) shows that for a population of 1100, a sample size of 285 is suggested. Hence, the sample interval is 4 (1091 households divided by the sample size, 285 is 382). The questionnaire was therefore administered to every fourth household. With the use of systematic sampling, it is necessary to state how the first unit will be selected. This study adopted the first house on each street as the first unit.

A translation of the questionnaire into isiZulu was made available to those respondents who request it or have difficulty in understanding the questionnaire in English. Strict COVID-19 Protocols were observed: sanitizing, wearing of masks and social distancing. Furthermore, the researcher carried a sanitizer and extra masks to ensure that no one participates without adhering to the COVID-19 protocols.

3.5 Data collection and the research instrument

To provide a thorough and accurate picture of a topic of interest, data collection is the methodical process of gathering and analysing information from a range of sources. It makes it possible for a person or researcher to provide pertinent answers, evaluate results, and predict probability and trends in the future (MacLaughlin 2021:1). Kabir (2018: 204) defines primary data as information that has been gathered through first-hand experience, is unpublished at the time of collection, and is unbiased and original. Since it is unaltered by humans, its validity outweighs that of secondary data. Surveys are one method of gathering primary data. Data can be collected using various instruments, such as surveys or questionnaires (Barret and Twycross 2018: 63).

The research instrument used to collect data in this study is a questionnaire.

3.5.1 Questionnaire design

According to McLeod (2018: 1), as a research tool, a questionnaire is made up of a series of questions intended to elicit information from respondents. Open-ended and closed-ended questions are widely employed in questionnaires because they can be used to gather data that is both quantitative and qualitative. Moreover, the use of a questionnaire has advantages, such as removing bias; giving respondents enough time to respond; making them approachable and convenient; and allowing for the use of large samples to get more trustworthy results (Rani 2021: 4).

A questionnaire can consist of open-ended or closed-ended questions or a combination of both, Cleave (2017: 1) describes open-ended questions as ones that allow respondents to include more information, giving the researcher more contextual feedback; better understands respondents' true feelings, unlike using closed-ended questions. This projects limitations such as not giving respondents the choice to freely give their opinions. This study used an instrument with mostly closed-ended questions to gather data from respondents. The questionnaire was be divided into 3 Sections; Section A provides out demographic information; Section B relates to questions on consumer challenges with regard to contracts; and Section C relates to consumer awareness of the CPA provisions relating to such challenges.

The Likert scale was used to rate the responses to the questions. Fleetwood (2020: 1) defines a Likert scale as a scale that is uni-dimensional, used by researchers to collect respondents' attitudes and opinions. When responding to a statement, the user responds based openly on their agreement or disagreement level.

The questionnaires were delivered by hand to the respondents. They were left with the respondents for completion and self-administration. The completed questionnaires were collected by the researcher at an identified time.

3.6 Data analysis

Data analysis can be described as a process that involves reducing collected quantitative data into small manageable portions. It involves developing

summaries of the data collected, looking for patterns and applying relevant statistical methods (Govender 2018: 99).

Calzon (2021: 1) states that the procedure of gathering, modelling, and analysing data to derive insights is referred to as 'data analysis'. The author adds that according to the topic of research and the goal of the analysis, there are several ways and strategies for conducting analysis. Data analysis takes place once the researcher has completed collecting the data. In analyzing the data, there are various statistical methods that can be used, such as standard deviation, variables, range, etc. (Lutabingwa and Auriacombe 2018: 532-542).

In this study, data was analyzed using the SPSS software, which Noels (2018: 1) defines as a revolutionary software package mainly used by research scientists to help them process critical data in simple steps. It is frequently used on data that is complicated and would take a long time to process, but with the aid of this programme, such information may readily be handled. The author continues by stating that this method is employed to analyse, alter, and create a distinctive pattern between various data variables. One benefit of using SPSS is that it requires the researcher to exert less energy than other statistical tools and does it quicker. It is advantageous for both quantitative and qualitative data, and the users have the freedom to choose a preferred graph style that suits the criteria of their data distribution. In addition, the likelihood of errors manifesting is minimal whilst using this application (Kershaw 2021: 1).

For this study, both descriptive and inferential statistics were used to present the results from the study.

3.6.1 Descriptive statistics

Kern (2014: 3-4) defines descriptive statistics as that which categorizes and summarizes the observations made, driving the need for an ongoing study (e.g. it can be suitable for studies in biochemistry, anatomy, etc). Furthermore, William (2021: 1) points out that descriptive statistics are employed to outline the fundamental characteristics of the data utilized in a study. They offer straightforward explanations of the sample and the measures, together with straight-

forward graphic analyses. The researcher is merely describing what is or what the data shows when using descriptive statistics.

On the other hand, descriptive statistics are used to simply define what the data means. Utilizing descriptive statistics has the advantage of providing quantitative descriptions in a format that is easy to understand. In addition, descriptive statistics enable the researcher to rationally simplify enormous volumes of data (William 2021: 1).

3.6.2 Inferential statistics

Inferential statistics is described as creating conclusions that reach beyond the data observed, with the aim to fulfil specific prior questions, which were raised before the study was conducted (e.g. can be suitable for studies in comparing groups, behaviour, etc). (Kern 2014: 3 - 4). Furthermore, William (2021: 1) explains that inferential statistics are used to draw conclusions from data that go beyond what is immediately available. Inferential statistics are thus employed in order to extrapolate the data's meaning to broader contexts. The tests used in this study are described below.

A Chi square test has been applied to this study. It is described as a statistic typically used for examining associations amongst categorical variables. The Chi square's null hypothesis states that there is no association between categorical variables in the population and that these variables are independent (Statistical Solutions 2021: 1). The Cronbach Alpha test was also applied. Such tests determine whether multiple-question surveys are credible (Glen 2023: 1).

Factor analysis is a technique for reducing a large number of variables to a manageable number of elements. This technique creates a single score by extracting the most common variance from each variable (Statistics Solutions 2021: 1). In this study, Factor analysis was used to test and construct validity.

3.7 Pre-testing

Pre-testing methods have been used throughout studies in order to develop and improve the questions asked so that there will be effectiveness in accommodating cultural and linguistic differences (Goerman 2006:67). Hilton (2015: 1) explains that pre-testing is a method of checking that questions work as envisioned, or they

ascertain the kind of information the researcher had in mind and that they are understood by participants clearly, without confusion. The author adds that the benefits of pre-testing are that it reduce errors in order to maximize response rates and it reduces creating a burden upon respondents when they answer the questions.

Pre-testing the survey questions is a crucial phase in survey construction, which aimed at improving survey validity and reliability. Since respondents may be going through a variety of processes when responding, the focus of pre-testing is on how people are answering the questions. In the end, it must be ensured that participants understand and react to questioning in the manner that the research intended (Chaudhary and Israel 2017:1). The authors add that pre-testing helps the researcher to determine if respondents comprehend the questions well enough and whether they can perform the tasks required or provide the information that the questions require. Pre-tests also provide the most direct indication for the validity of the questionnaire.

The main advantage of pre-testing is that it reveals problems before the whole survey is implemented and includes an assessment of each question's reliability (whether the question is capturing information intended to measure the goals and objectives of the study). The advantage of conducting a pre-test is that it provides information on the response rates for the initial contact and subsequent contacts; the length of time required for responses to each question; whether respondents can complete the questionnaire in the allotted time; instances of misunderstanding; and the pattern of answers (how the different respondents answered the same question or sets of questions) (Chaudhary and Israel 2017: 2).

In this study, a pre-test was conducted by administering questionnaires to 10 consumers. The questionnaires were self-administered. Where explanations were required by the respondents, this was provided by the researcher. The respondents selected for the pre-test will not be part of the main study. The pre-test served to ensure that the respondents understand the questions in order to avoid ambiguities and to ensure the reliability of the instrument.

3.8 Validity and reliability

The researcher's ability to maintain or prove validity and reliability is very important. These aspects of the study are described below.

3.8.1 Reliability

Drost (2011: 106-114) states that reliability is defined as being concerned with obtaining the same outcome when the instrument is tested under the same circumstances. Mohajan (2017: 10) states that a measurement is held to be reliable if it produces consistent results with similar values. It also gauges a research study's accuracy, precision, repeatability and sincerity. Moreover, it demonstrates the degree to which the instrument is error-free and guarantees consistent measurement across time and amongst the different instruments' objects.

Bannigan and Watson (2009: 3238) mention that reliability refers to the stability of the measurement scale, for instance seeing how far the instrument will give the same results on separate events, and it can be evaluated by looking at how stable it is; the level of internal consistency and similarity, whereas validity looks at the extent to which an instrument measures what it intended to measure and can be measured in various ways such as content, standard or construction. In this study, the Cronbach alpha test will be used to assess reliability. In addition, a pre-test of the consumer questionnaires will also be used to assess reliability, as indicated above.

3.8.2 Validity

Validity can be described as how accurately a method measures what it is supposed to measure when a study has strong external validity, its findings correspond to actual traits and changes in the physical or social environment. High dependability is therefore one of the characteristics that show that a measurement is valid (Middleton 2019: 1). Validity can also be described as a statistical technique used to uncover relationships amongst many variables. In this study, validity was assessed using the factor analysis test. It is appropriate for this study because it allows inter-correlated variables to be reduced into fewer sizes called factors (Lutabingwa and Auriacombe 2018: 545).

3.9 Anonymity and confidentiality

Researchers must maintain trust and honesty between themselves and their participants to satisfy the ethical principle of confidentiality, which is supported by the principle of respect for autonomy, as well as to guarantee that the individual's identity is safe and any information that places the participant at risk of being identified is minimized, especially when results are presented without permission (Wiles, Crow, Heath and Charles 2008: 4-5). In this study, confidentiality was maintained using anonymous questionnaires and by not revealing personal information when the data is analyzed.

3.10 Ethical considerations

The safety of human subjects throughout the application of any ethical principles adopted is very important in all research. Respondents need to provide written consent to participate after having been fully informed about the study. Arifin (2018: 30) advises that every participant should be informed that participation is voluntary, and that they can withdraw at any stage. Researchers have a responsibility to follow research ethics when conducting their studies, with respect for both parties, i.e. on the part of the researcher and on the part of the participants (DeFranzo 2011:19).

The respondents in this study submitted a written consent that is signed. Both the letter of consent and information letter provided to respondents were approved by DUT's Institutional Research Ethics Committee (IREC). The respondents was made aware that participation in the study is voluntary and that they have the right to withdraw at any stage. In addition, the researcher complied with DUT's ethical requirements. The data gathered in the study will be stored for five years and will thereafter be destroyed.

For a period of five years, soft copies of the data will be kept on a flash-drive with password access. The researcher will keep hardcopies of the data in a lockup cabinet in a secure location. Data will only be accessible to the researcher, statistician and supervisor. The hardcopies of the data will be destroyed after five years, and the electronic copies will be deleted.

3.11 Conclusion

This chapter analysed the different methodologies that can be applied in any study and made specific reference to which methodology this study has adopted. The study's research design, target population and sample, data collecting and analysis, and how validity and reliability would be ensured, are also discussed. Data for the study are gathered quantitatively using a questionnaire survey to glean information. The approach of systematic random sampling was used to select the sample. To find out how consumers feel about contracts and whether they are aware of their rights under the CPA, a structured questionnaire was used.

The results analysis and discussion of the empirical study's findings are presented in the following chapter.

CHAPTER 4

ANALYSIS OF RESULTS AND DISCUSSINS OF THE FINDINGS

4.1 Introduction

The CPA aims to protect all consumers so that suppliers do not take advantage of their vulnerability in the marketplace. Research has shown that not all consumers have the same standard of living, hence the means of protection should be flexible to accommodate all types of consumers irrespective of their education and social background. This study investigates the consumer rights and challenges of the socio-economically disadvantaged and the implications of the Consumer Protection Act 68 of 2008.

This chapter presents the analysis of results and discusses the findings obtained from the questionnaires in this study. The questionnaire was the primary tool used to collect data and was distributed to 283 consumers who reside at Illovo in the Bhekulwandle area. In total, 283 questionnaires were dispatched and all 283 were returned, which gave a 100% response rate.

SPSS Version 27.0 was used for the analysis of the information gathered from the responses. For the quantitative data gathered, the results will be displayed using descriptive statistics in the form of graphs, cross-tabulations and other figures. Correlations and chi square test results, which are interpreted using p-values, are examples of inferential approaches. The conventional method of reporting a result necessitates a statistical significance statement. Inferred from a test statistic is a p-value. A finding that is significant is denoted by "p 0.05". Forty-nine elements with a nominal or ordinal level of measurement made up the research instrument. The questionnaire was broken up into three main components, each of which measured a different subject as shown below:

A. Biographical Data

B. Contractual challenges of vulnerable consumers

C. Awareness of consumer rights in terms of the Consumer Protection Act 68 of 2008.

4.2 Analysis of results from the consumer survey

4.2.1 Biographical Data

The analysis of the biographical data is presented in this section.

4.2.1.1 Age of respondents

The respondents were asked to indicate their age and Figure 4.1 shows the results.

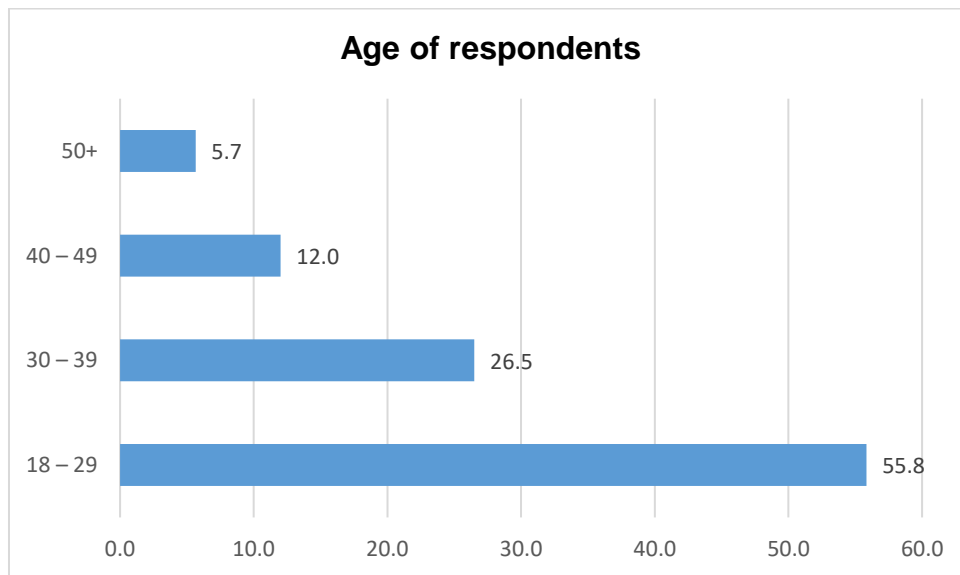


Figure 4.1: Age of respondents

Figure 4.1 shows that 55.8% of the respondents are between the ages of 18-29; 26.5% are between 30-39; 12,0% are between 40-49 and 5.7% are 50 years and above. The findings show that the majority of respondents are in the 18-29 year age-group.

4.2.1.2 Highest level of education

The respondents were asked to indicate their highest level of education and Figure 4.2 below shows the results.

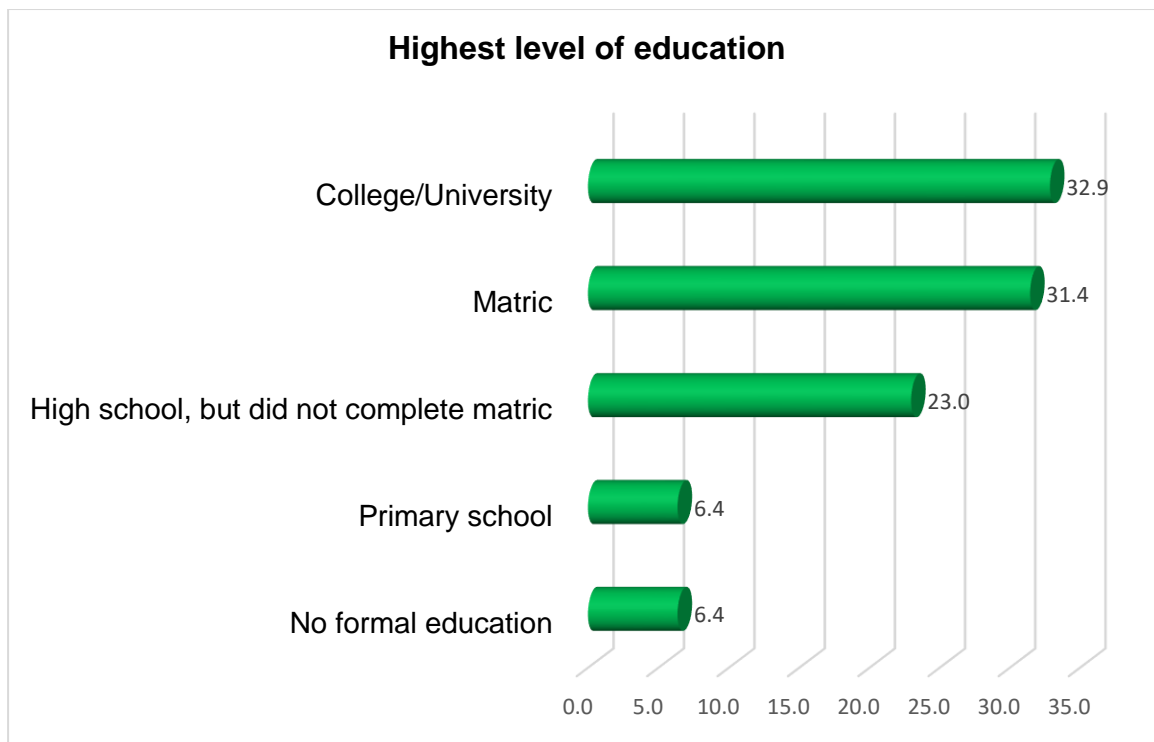


Figure 4.2: Highest level of education

Figure 4.2 shows the results relating to the respondents' highest level of education, whereby 32.9% of them have completed a college/university qualification; 31.4% have completed Matric; and 23.0% have a high school education but did not complete matric. Furthermore, 6.4% have a primary school education, while 6.4 % have no formal education. The findings show that relating to the respondents' highest level of education, the majority have completed matric and hold a college /university qualification.

4.2.1.3 Work status

The respondents were asked to indicate their work status. Figure 4.3 below shows the results.

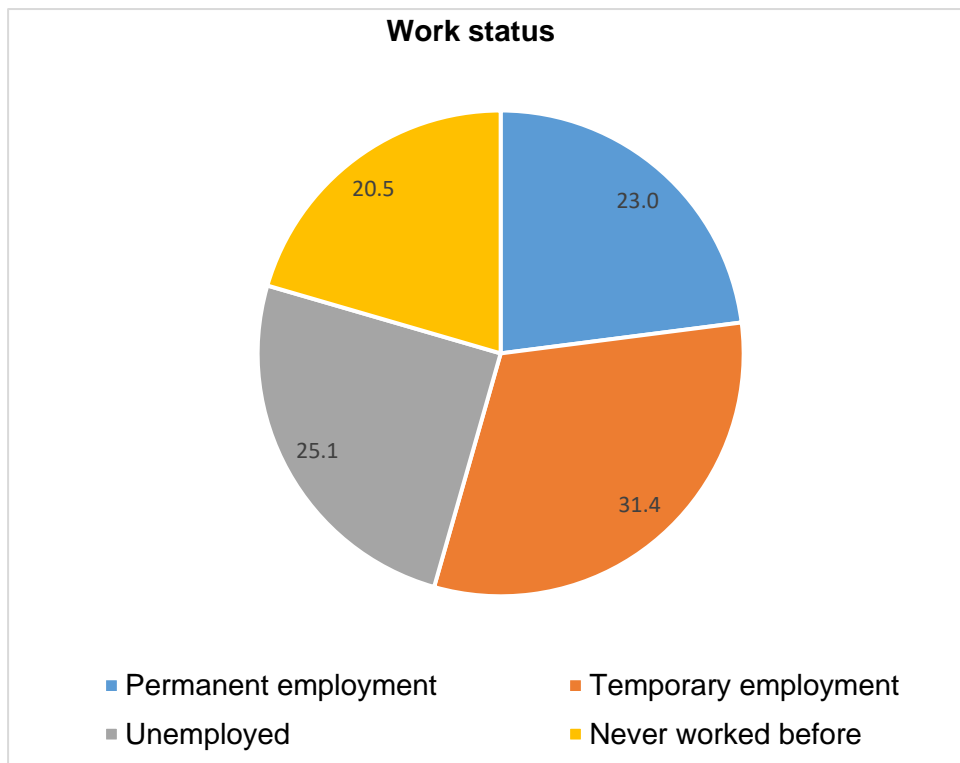


Figure 4.3: Work status

Figure 4.3 shows that 23.0% of the respondents are permanently employed; 31.4% of are temporarily employed; 25.1% are unemployed and 20.5% never worked before. Hence, with respect to work status, the findings show that the majority of the respondents are temporarily employed.

A study conducted by Hurlbut (2018: xvii) discovered that the majority of people hold lower-paying, frequently informal jobs. When people discover high-paying positions, they are reluctant to leave them once they have them. The lower-paying positions rotate continuously.

4.2.1.4 Ability to read and understand in various languages

The respondents were asked to rate their ability to read and understand in each of the languages listed. Figure 4.4 below shows the results.

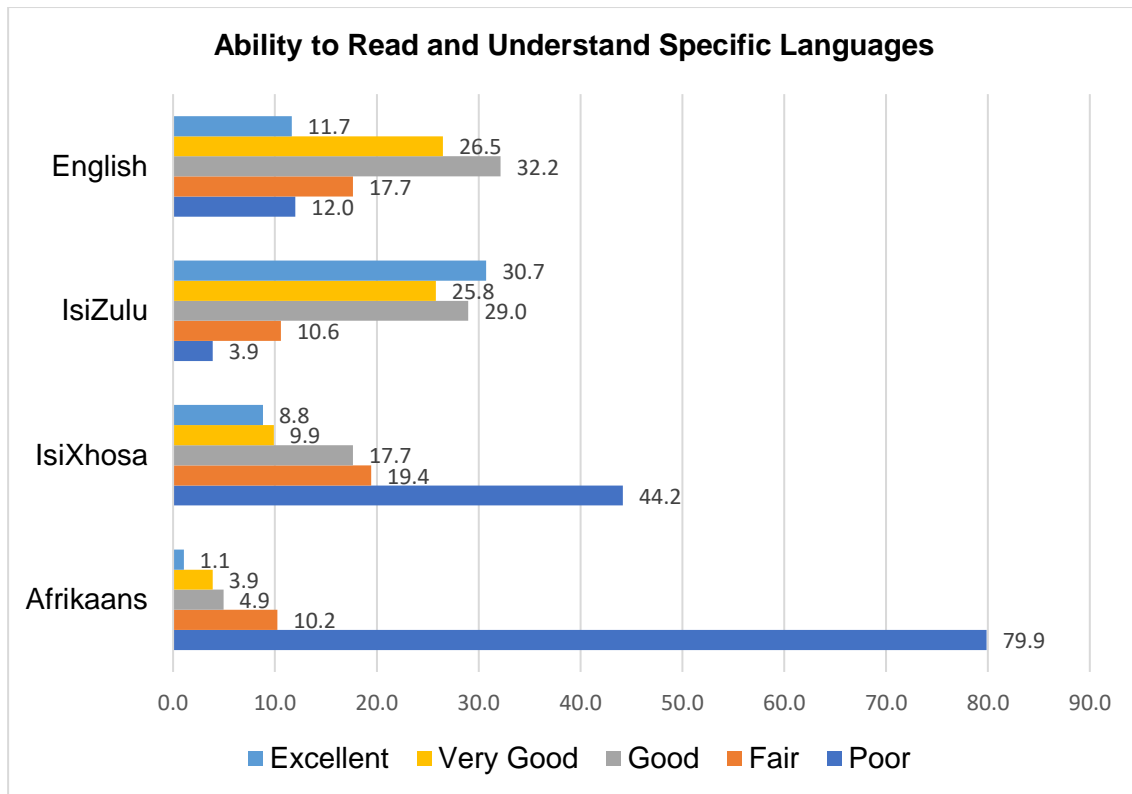


Figure 4.4: Ability to Read and Understand specific languages

Figure 4.4 shows the results relating to the respondents' ability to read and understand each of the languages listed below:

- **English** – 32.2% of the respondents rated having a good ability to read and understand; 26.5% have a very good ability to read and understand; 17.7% rated having a fair ability to read and understand; 12.0% rated have a poor ability to read and understand, while 11.7% have an excellent ability to read and understand English.

The findings show that the majority of the respondents have a good ability to read and understand English.

- **isiZulu** - 30,7% of the respondents rated having an excellent ability to read and understand; 25.8% have a very good ability to read and understand; 29.0% have a good ability to read and understand, 10.6 have a fair ability to read and understand and 3.9% have a poor ability to read and understand isiZulu.

The findings show that a majority of respondents have an excellent ability to read and understand isiZulu.

- **isiXhosa** – 44.2% of the respondents rated having a poor ability to read and understand; 19.4% have a fair ability to read and understand; 9.9 have a very good ability to read and understand; 8.8% have an excellent ability to read and understand and 7.7% have a good ability to read and understand isiXhosa.

The findings show that a majority of the respondents have a poor ability to read and understand isiXhosa.

- **Afrikaans** – 79.9% of the respondents rated having a poor ability to read and understand; 10.2% have a fair ability to read and understand; 4.9% have a good ability to read and understand; 3.9% have a very good ability to read and understand and 1.1% have an excellent ability to read and understand Afrikaans.

The findings show that a majority of the respondents have a poor ability to read and understand Afrikaans.

4.2.1.5 Main source of income in your home

The respondents were asked to indicate what their main source of income in their home is. Figure 4.5 below shows the results.

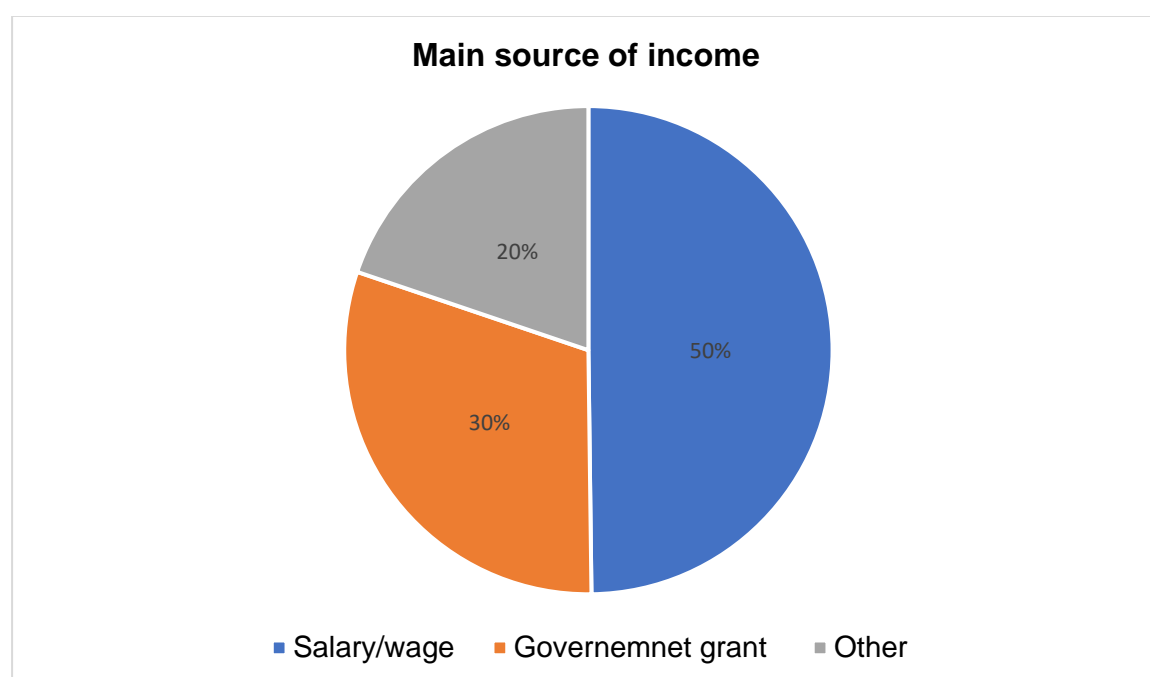


Figure 4.5: Main source of income

Figure 4.5 shows the results for the respondents' main source of income in their households. The results show that 50% of the respondents indicated that the main

source of income is a salary/wage, 30% indicated a government grant and 20 % indicated that they receive income from other activities used to generate income. The findings show that for the majority of the respondents, the main source of income is a salary/wage within the household.

4.2.1.6 Average income range per month in respondents' homes

The respondents were asked to indicate their average income range per month in their home. Figure 4.6 below shows the results.

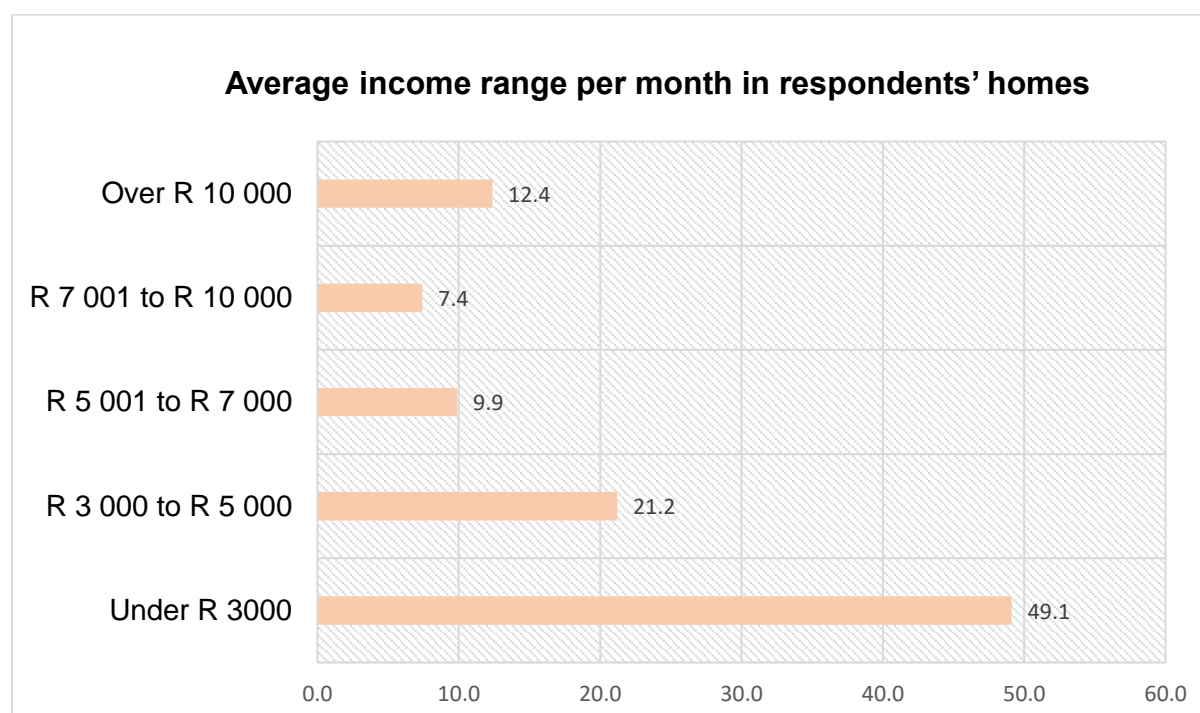


Figure 4.6: Average income range per month in respondents' homes

Figure 4.6 above shows the results in respect of the respondents' average income range per month in their household. The results show that 49.1% of the respondents receive under R3000 per month, 21.2% receive between R3000 to R5000 and 9.9 % of them receive between R5000 to R7000. Additionally, 7.4 % receive between R7000 to R10 000 and 12.4% receive over R 10 000 per month. The findings show that the almost half of the respondents receive an income each month that is under R 3000.

According to Barnard (2015: 223), Section 3 of the Act states that a vulnerable consumer includes those with a low income, who are illiterate, young and elderly consumers. Therefore, the majority of the respondents would qualify as "vulnerable consumers" based on their income.

4.3 Challenges experienced by consumers when concluding consumer contracts

The analysis of results of the challenges experienced by consumers when concluding consumer contracts is presented in this section. The respondents were asked to indicate their level of agreement with various challenges that consumers face when concluding consumer contracts. Figure 4.7 below shows the results.

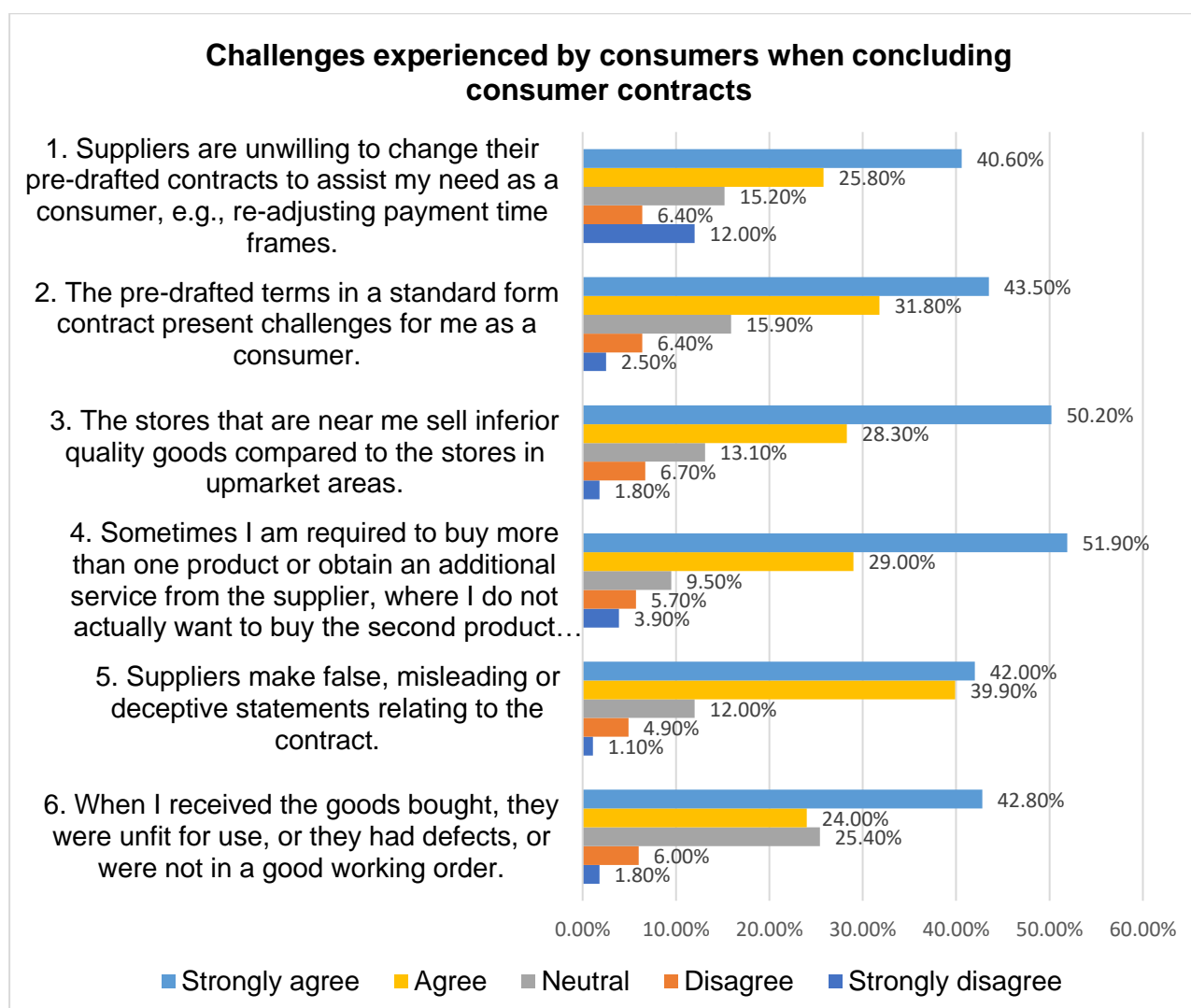


Figure 4.7: Challenges experienced by consumers when concluding consumer contracts

From the results shown in Figure 4.7 above, the following patterns are observed:

- All statements show significantly higher levels of agreement with Agree/Strongly agree, whilst other levels of agreement are lower (but still greater than levels of disagreement); and
- All statements show some level of neutral responses.

The results shown in Figure 4.7 above for the individual sub-themes reveal that:

- **Statement 1: Suppliers are unwilling to change their pre-drafted contracts to assist my need as a consumer, e.g., by re-adjusting payment time-frames:** Collectively, 66.4% of the respondent agreed (40.6%) or strongly agreed (25.8%) that suppliers are unwilling to change their pre-drafted contracts to assist their needs as consumers, while 6.4% disagreed and 12.6% strongly disagreed with the statement. The rest of the respondents (15.2%) were neutral. The findings show that a majority of the respondents agreed with the statement. Aniol (2016: 1) states that there are other challenges that may be experienced because of the inequality of bargaining power, that is when a contract is unfair, unjust and unreasonable. Frequently, it is found to be excessively one-sided;
- **Statement 2: The pre-drafted terms in a standard form contract present challenges for me as a consumer:** Collectively, 75.3% of the respondents strongly agree (43.5%) or agreed (31.8%) that pre-drafted terms in a standard-form contract present challenges for them as consumers, while 6.4% disagreed and 2.5% strongly disagreed with the statement and 15.9% of the respondents were neutral. The findings show that a majority of the respondents strongly agreed/agreed with the statement. Palanee (2014: 1) maintains that consumers have little bargaining power to negotiate the terms that go into these contracts and end up being presented with a take-it-or leave-it contract from the supplier;
- **Statement 3: The stores that are near me sell inferior quality goods compared to the stores in upmarket areas:** Collectively, 78.5% of the respondents strongly agree (50.2%) or agree (28.3%) that the stores that are near them as consumers sell inferior quality goods compared to the stores in the upmarket areas; 6.7% disagreed and 1.8% strongly disagreed with the statement leaving only 13.1% remaining respondents neutral. The findings show that a majority of the respondents strongly agreed/agreed with the statement. Singh and Kumar (2020: 443) highlights the exploitation that vulnerable consumers face in rural areas, such as underweighted goods being excessively reproduced in order to maintain an original item that compromises the quality standard that a consumer is entitled to;

- Statement 4: Sometimes I am required to buy more than one product or obtain an additional service from the supplier, where I do not actually want to buy the second product or obtain the service:-** A combined response of 80.9% of the respondents strongly agreed (51.9%) or agreed (29.0%) that sometimes they are required to buy more than one product or obtain an additional service from the supplier when they in fact do not want to obtain any additional product or services; 5.7% disagreed with the statement and 3.9% strongly disagree and 9.5% were neutral. The findings show that a majority of the respondents agree with the statement. According to Giles (2020: 1), the problem that may affect consumers relates to suppliers bundling their goods, which may lead to the situation where a consumer is required to buy more than one product (or obtain a service) from a similar or nominated third-party supplier where the consumer does not actually want to buy the second product (or obtain the service) from the supplier;
- Statement 5: Suppliers make false, misleading or deceptive statements relating to the contract: -** A majority of 81.9% of the respondents strongly agree (42.0%) or agree (39.9%) that suppliers make false, misleading or deceptive statements relating to the contract; 4.9% disagreed with the statement and 1.1% strongly disagreed, whilst 12.0% of the respondents were neutral. The findings show that the majority of the respondents strongly agreed/agreed with the statement. de Langa (2020: 1) explains that misleading statements from suppliers could lead to misleading consumers;
- Statement 6: When I received the goods bought, they were unfit for use, or they had defects, or were not in a good working order:** A majority of 66.8% of the respondents strongly agree (42.8%) or agree (24.0%) that when they received goods that they bought, those goods were unfit for use or they had defect, or they were not in a good working order. A further 6.0% disagreed with the statement and 1.8% strongly disagree, whilst 25.4% of the remaining respondents were neutral. The findings show that the majority of the respondents strongly agree/agreed with the statement. A study by the Australian Consumer Commission (2014: 2) found that, because of poverty, consumers may be tempted by unscrupulous suppliers to purchase poor quality

goods or goods that may not be safe, etc. (E.g., food products that are close to expiry date or that have actually expired).

Therefore, in respect of the theme on the challenges experienced by consumers when concluding consumer contracts, the results shown above in Figure 4.7 indicate that the majority of the respondents do experience the challenges shown in Sub-themes One to Six. All statements show high levels of agreement. Although there are certain levels of disagreement in the sub-themes, these are significantly low.

4.4 Contractual challenges of vulnerable consumers

This section sets out the results in respect of the contractual challenges experienced by vulnerable consumers. The respondents were asked to indicate their level of agreement with various statements concerning the contractual challenges that they faced when concluding consumer contracts. Figure 4.8 below shows the results.

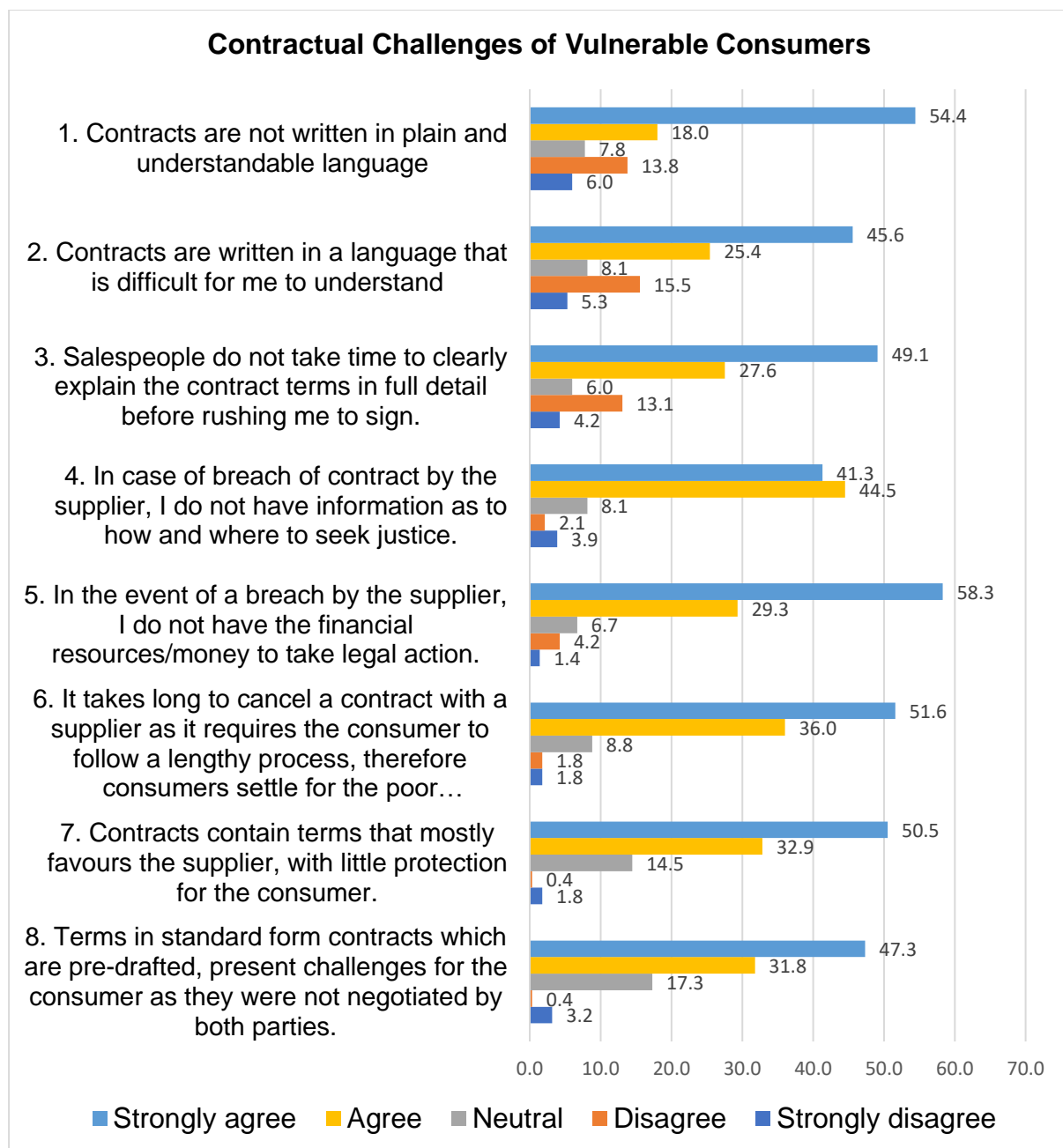


Figure 4.8: Contractual Challenges Faced By Vulnerable Consumers

From the results shown in Figure 4.8 above, the following patterns are observed:

- All statements show significantly higher levels of agreement with Agree/Strongly agree; and
- All statements show some level of neutral responses.

The results shown in Figure 4.8 above for the individual sub-themes reveal that:

- **Statement One: Contracts are not written in plain and understandable language:** - 72.4% of the respondents strongly agreed (54.4%) or agreed

(18.0%) that contracts are not written in plain and understandable language, while 13.8% disagreed and 6.0% strongly disagreed with the statement. Furthermore, 7.8% were neutral. The findings show that the majority of the respondents strongly agreed/agreed that contracts are not written in plain and understandable language. According to Kapur (2011: 2), SED consumers, partly because of low literacy levels, may have challenges with understanding the language used in contracts because it has a fair amount of legal jargon that is very hard to understand;

- **Statement Two: Contracts are written in a language that is difficult for me to understand:** – Collectively, 71% of the respondents strongly agreed (45.6%) or agreed (25.4%) that contracts are written in a language that is difficult for consumers to understand. A further 15.5% disagreed with the statement and 5.3% strongly disagreed, while the remaining 8.1% of the respondents were neutral. The findings show that the majority of respondents agreed that contracts are written in a language that is difficult for them to understand. A study by Munnick (2015: 16) found that although the majority of South Africans speak English as their second or third language, this poses a challenge for consumers as there are many factors that affect consumers in correctly understanding the content written in English, such as the level of education;
- **Statement Three: Sales-people do not take time to clearly explain the contract terms in full detail before rushing me to sign:** – A combined response of 76.7% of the respondents strongly agreed (49.1%) or agreed (27.6%) that sales-people do not take time to clearly explain the contractual terms in full details before rushing consumers to sign. Furthermore, 13.1% disagreed and 4.2% strongly disagreed, while the remaining 6.0% of the respondents were neutral. The findings show that the majority of the respondents agreed/strongly agreed with the statement. According to Du Plessis (2013: 227), traditionally, contract law assumed that the parties have negotiated the terms of the contract. In reality, this is generally not true as businesses use standard contracts that benefit them and are not open to negotiation;
- **Statement Four: In case of breach of contract by the supplier, I do not have information as to how and where to seek justice:** - Collectively, 85.8%

of the respondents agreed (44.5) or strongly agreed (41.3%) that in a case where there is a breach of contract by a supplier, the consumer does not have information as to how and where they can seek justice. Furthermore, 2.1% disagreed with the statement and 3.9% strongly disagreed, while the remaining 8.1% being neutral. The findings show that, collectively, the majority of the respondents agreed/strongly agreed that in the case of a breach of contract by the supplier, they do not have information as to how and where to seek justice. According to De Stadler (2016: 17), the application of the CPA and the protection it affords goes beyond looking after the vulnerability of a consumer. However, despite these provisions, consumers, especially those from a disadvantaged background, face challenges in accessing justice;

- **Statement five: In the event of a breach by the supplier, I do not have the financial resources/money to take legal action:** – Collectively, 88.2% of the respondents strongly agreed (58.3%) or agreed (29.3%) that in the event of a breach of contract by the supplier, the consumer does not have the financial resources to take legal action. Furthermore, 4.2% disagreed and 1.4% strongly disagreed with the statement, while 6.7% of respondents were neutral. The findings show that the majority of respondents strongly agreed/agreed with the statement. According to De Stadler (2016: 17), the expensive legal costs that consumers have to bear in order for them to have access to justice is the reason why they always opt to settle any dispute in an informal manner;
- **Statement Six: It takes long to cancel a contract with a supplier as it requires the consumer to follow a lengthy process, therefore consumers settle for the poor performance:** – Collectively, a majority of 87.6% of the respondents strongly agreed (51.6%) or agreed (36.0%) that it takes long to cancel a contract with a supplier as it requires the consumer to follow a lengthy process, therefore consumers settle for the poor performance. Furthermore, collectively, 1.8% disagreed and a further 1.8% strongly disagreed with the statement, while 8.8% were neutral. The findings show that the majority of the respondents strongly agreed/agreed with the statement. Woker (2010: 230) claims that, because litigation is so expensive and does not make financial sense for impoverished consumers to pursue the matter in court, consumers do not have the financial capacity to fight for their rights;

- **Statement Seven: Contracts contain terms that mostly favors the supplier, with little protection for the consumer:** – Together, 83.4% of the respondents strongly agreed (50.5%) or agreed (32.9%) that contracts contain terms that mostly favor the supplier, with little protection for the consumer. Only 0.4% disagreed and 3.2% strongly disagreed with the statement, while the remaining 14.5% of the respondents were neutral. The findings show that the majority of the respondents strongly agreed/agreed with the statement. Aniol (2016: 1) confirms that there are certain challenges that may be experienced because of the inequality of bargaining power where a contract is unfair, unjust and unreasonable. Most of the time, it is found to be excessively one-sided in favour of the supplier; and
- **Statement Eight: Terms in standard-form contracts which are pre-drafted, present challenges for the consumer as they were not negotiated by both parties:** – A majority of 79.1% of the respondents strongly agreed (47.3%) or agreed (31.8%) that terms in a standard-form contract, which are pre-drafted, present challenges for the consumer as they were not negotiated by both parties. Just 0.4% disagree and 3.2% strongly disagree with the statement, while 17.3% of the remaining respondents were neutral. The findings show that the majority of the respondents strongly agreed/agreed with the statement.

A study by Tembe (2017: 7) found that it is a problem when standard-form contracts are not regulated. In addition to the fine-print, unclear legalese makes it difficult for the average consumer to understand how complicated the deal being presented to him is.

Hence, in respect of the theme: contractual challenges faced by vulnerable consumers, the findings show that the majority of the respondents do experience all the contractual challenges listed in the sub-themes from statements one to eight. All statements show high levels of agreement from the consumers.

4.5 Awareness of consumer rights in terms of the Consumer Protection Act 68 of 2008

The analysis of results for awareness of consumer rights in terms of the Consumer Protection Act 68 of 2008 is presented in this section. The respondents were asked

to indicate their level of awareness with each of the consumer rights listed. Figure 4.9 below shows the results.

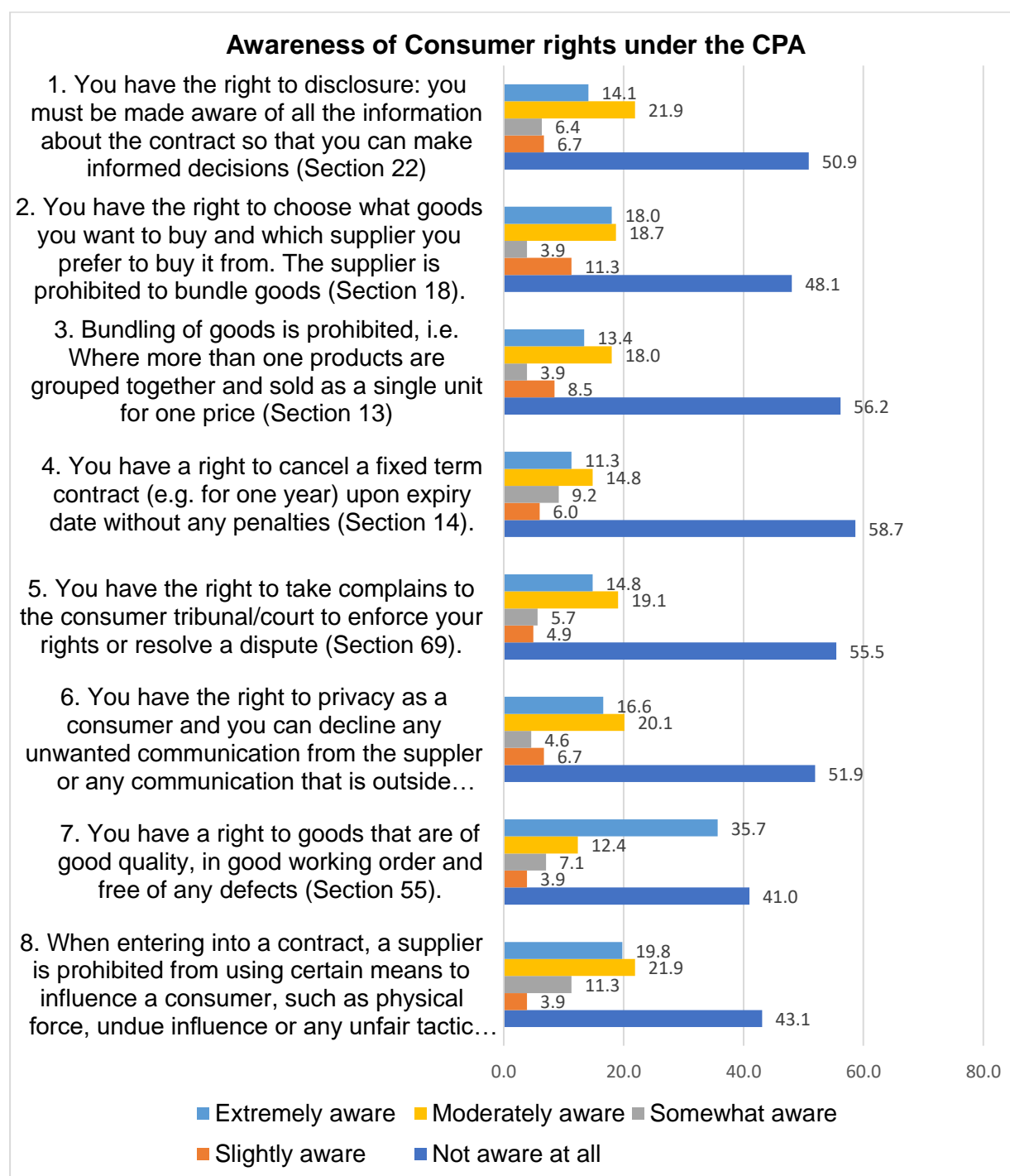


Figure 4.9: Awareness Of Consumer Rights Under The CPA

From the results shown in Figure 4.9 above, the following patterns are observed:

- All statements show significantly higher levels of “not aware at all” of the listed consumer rights; and

- All statements show some level of “moderately aware”.

The results shown in Figure 4.8 above for the individual sub-themes reveal that:

- **Statement One: You have the right to disclosure: you must be made aware of all the information about the contract so that you can make informed decisions (Section 22)** - A majority of 50.9% of the respondents were not aware at all that they have a right to disclosure, while 6.7% were slightly aware and 6.4% indicated that they were “somewhat aware” of the right. Furthermore, 21.9% were moderately aware and the remaining 14.1% of respondents were extremely aware. The findings show that the majority of the respondents were not aware at all of the consumer right to disclosure. Mhlanga (2011: 46) confirms that many functionally uneducated consumers are unaware of their right to information, and they also lack the confidence and skills needed by average consumers in demanding this information in the retail setting.
- **Statement Two: You have the right to choose what goods you want to buy and which supplier you prefer to buy it from. The supplier is prohibited from bundling goods (Section 18)** - 48.1% of the respondents were not aware at all that they have a right to choose what goods they want to buy and which supplier they prefer to buy it from, and that the supplier is prohibited from bundling goods. A further 11.3% indicated slight awareness and 3.9% indicated that they were “somewhat aware” of the right. A further 18.7% were moderately aware and the remaining 18.0% of the respondents were extremely aware. The findings show that almost half of the respondents were not aware at all of the consumer right to choose. van Schalkwyk (2014: 27-28) stipulates that consumers have the right to evaluate prices and shop around before making a purchase in accordance with Section 13 (CPA, 2008:46). Retailers are not allowed to force customers to accept bundled services.
- **Statement Three: “Bundling” of goods is prohibited, i.e. where more than one product is grouped together and sold as a single unit for one price (Section 13)** – A majority of 56.2% of the respondents were not aware at all that the bundling of goods is prohibited, 8.5% indicated slight awareness and 3.9% indicated that they were “somewhat aware”. A further 18.0% showed moderate awareness and the remaining 13.4% of the respondents indicated

that they were extremely aware. The findings show that the majority of respondents were not aware at all that bundling is prohibited;

- **Statement Four: You have a right to cancel a fixed-term contract (e.g., for one year) upon expiry date without any penalties (Section 14)** – A majority of 58.7% of the respondents were not aware at all that they have a right to cancel a fixed-term contract upon expiration date without paying any penalties, while 6.0% showed slight awareness and 9.2% indicated “somewhat aware”. A further 14.8% showed moderate awareness and the remaining 11.3% of the respondents were extremely aware of the right. The findings show that the majority of respondents were not aware at all they have a right to cancel a fixed-term contract upon expiry without penalty;
- **Statement Five: You have the right to take complaints to the consumer tribunal/court to enforce your rights or to resolve a dispute (Section 69)** – A majority of 55.5% of the respondents were not aware at all that they have a right to take complaints to the consumer tribunal/court to enforce their rights or resolve a dispute, while 4.9% showed slight awareness and 5.7% indicated they were “somewhat aware” of the right. A further 19.1% showed moderate awareness. The remaining 14.8% of the respondents indicated they were extremely aware of the right. The findings show that the majority of respondents were not aware at all of the right to take complaints to the consumer tribunal/court to enforce their rights or to resolve a dispute. Ishak (2012: 106) states that if consumers are aware of their rights and the procedures to make a claim, potentially this interferes with such consumers’ capacity and ability to defend themselves against unethical sellers;
- **Statement Six: You have the right to privacy as a consumer and you can decline any unwanted communication from the supplier or any communication that is outside business hours (Section 11)** – A majority of 51.9% of the respondents were not aware at all that they have a right to privacy as consumers and that they can decline any unsolicited communication from the supplier, while 6.7% showed slight awareness of the right and 4.6% were somewhat aware. A further 20.1% showed moderate awareness and 16.6% were extremely aware of the right. The findings show that the majority of the respondents were not aware at all of the right to privacy and that they can

decline unwanted communication from the supplier. According to Meiring, Kirby and Bortz (2012: 2), the consumer's right to privacy includes the right to reject any unsolicited direct marketing. Section 11 of the CPA affirms the consumer's ability to limit such marketing.

- **Statement Seven: You have a right to goods that are of good quality, in good working order and free of any defects (Section 55)** – 41.0% of the respondents were not aware at all that they have a right to goods that are of good quality, in working order and free of any defects; while 3.9% showed slight awareness and 7.1% were somewhat aware of the right. A further 12.4% showed moderate awareness. The remaining 35.7% of the respondents were extremely aware of the right. The findings show that a little less than half of the respondents were not aware at all of the right to goods that are of good quality, in good working order and free of any defects. Kuwakhedawal (2012: 1) submits that it has been observed that consumers do not know their rights with respect to high-quality products and services. Therefore, suppliers take advantage of them by, for instance, over-charging, under-weighing, selling products of low quality, deceiving consumers through false advertising, etc.;
- **Statement Eight: When entering into a contract, a supplier is prohibited from using certain means to influence a consumer, such as physical force, undue influence or any unfair tactic (Section 40)** – 43.1% of the respondents were not aware at all that when entering into a contract, a supplier is prohibited from using certain means to influence a consumer, such as force, undue influence or any other unfair tactic. A further 3.9% showed slight awareness and 11.3% were somewhat aware of the right, while 21.9% showed moderate awareness and 19.8% were extremely aware of the right. The findings show that almost half of the respondents were not aware at all that a supplier is prohibited from using certain means to influence a consumer, such as physical force, undue influence or any unfair tactic.

4.6 Protective provisions afforded by the CPA in respect of the contractual challenges of vulnerable consumers

The analysis of results for the sub-theme “protective provisions that the CPA affords in respect of the contractual challenges of vulnerable consumers” are presented in this section. The respondents were asked to indicate their level of

awareness in respect of selected CPA provisions regarding the contractual challenges discussed above. Figure 4.10 below shows the results.

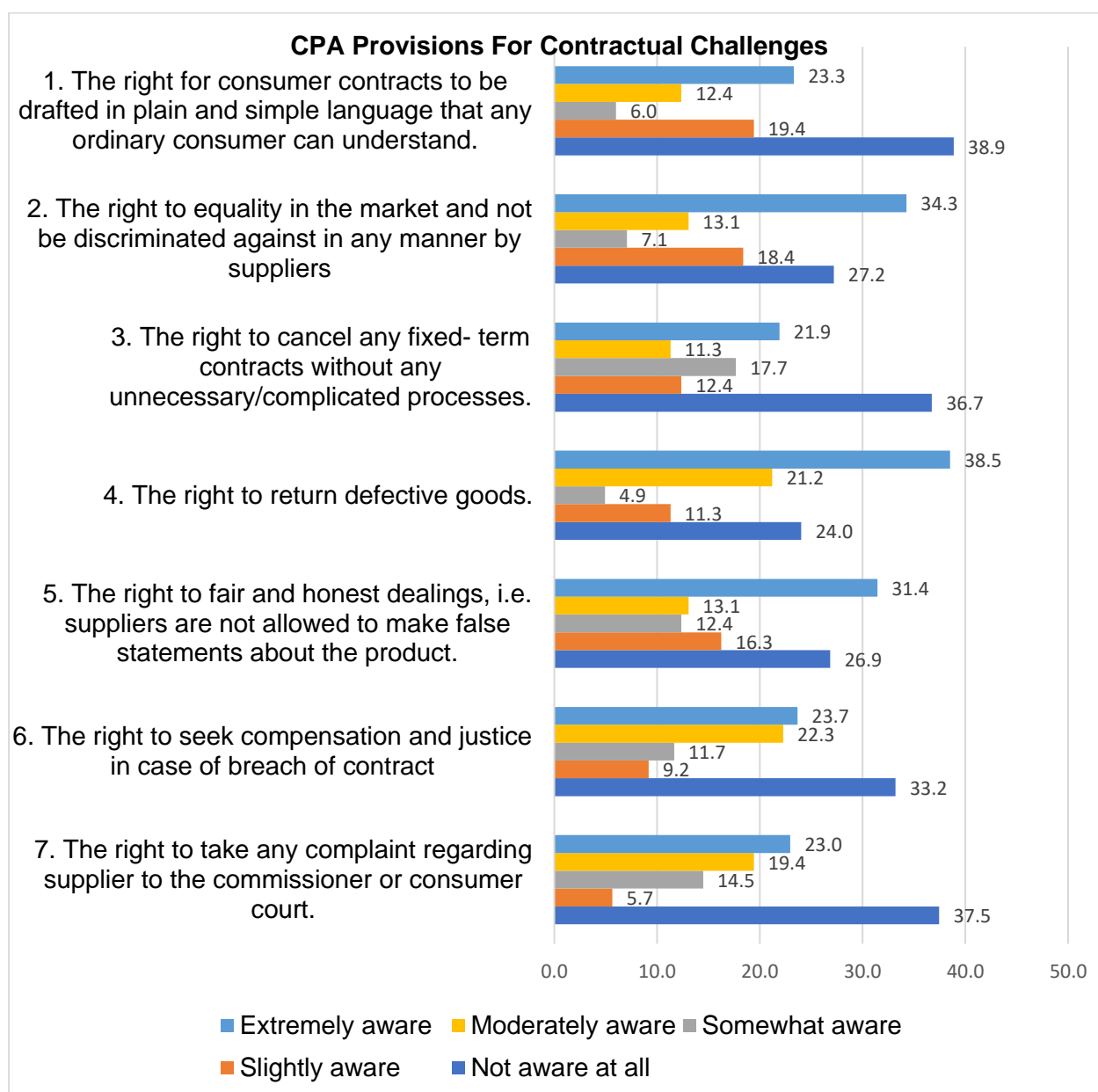


Figure 4.10: CPA protection provisions for contractual challenges faced by vulnerable consumers

From the results shown in Figure 4.10 above, the following patterns are observed:

- All statements show significantly higher levels of “not aware at all” of the listed CPA protection provisions;
- All statements show some level of “moderately aware”; and
- All statements show some level of “extremely aware”.

The results shown in Figure 4.10 above for the individual sub-themes reveal that:

- **Statement one: The right for consumer contracts to be drafted in plain and simple language that any ordinary consumer can understand** - 38.9% of the respondents were not aware at all that consumer contracts should be drafted in plain and simple language that any ordinary consumer can understand; 19.4% showed slight awareness and 6.0% showed that they were “somewhat aware”. Furthermore, 12.4% showed moderate awareness and the remaining 23.2% were “extremely aware” of the right. The findings show that a significant proportion of the respondents were not aware at all that consumer contracts should be drafted in simple and plan language that any ordinary consumer can understand. In fact, collectively, the majority of the respondents were not aware or slightly aware. The Competition and Consumer Protection Commission (2020: 3) states that consumers in general may not understand or be aware of the exact legal status of the terms they are agreeing to in the contracts they are signing;
- **Statement Two: The right to equality in the market and the right not be discriminated against in any manner by suppliers** - 34.3% of the respondents are extremely aware of the right to equality in the market and the right not be discriminated against by suppliers. Furthermore, 27.2% showed that they were not aware at all, while 18.4% showed “slight awareness” and 7.1% showed that they were “somewhat aware”. The remaining 13.1% of respondents showed “moderate awareness” of the rights. The findings show that most of the respondents are extremely aware of the right to equality and the right not to be discriminated against by business;
- **Statement Three: The right to cancel any fixed-term contracts without any unnecessary/complicated processes** – 36.7% of the respondents were not aware at all of the right to cancel any fixed-term contracts without any unnecessary/complicated processes; 21.9% showed being extremely aware and 12.4% showed slight awareness. A further 17.7% showed somewhat awareness and 11.3% showed moderate awareness of the right. The findings show that most of the respondents are not aware at all of the of the right to cancel any fixed-term contracts;

- **Statement Four: The right to return defective goods** – 38.5% of the respondents were extremely aware of the right to return defective goods, while 24.0% were not aware at all and 11.3% were slightly aware of the right. A further 4.9% showed they were “somewhat aware” and 21.2% were “moderately aware”. The findings show that most of the respondents are extremely aware of the right to return defective goods. According to Strachan (2012: 1), in terms of Section 56 of the CPA, if a product does not comply with the prescribed warranties, the consumer may send back the product to the supplier within six months after delivery;
- **Statement Five: The right to fair and honest dealings, i.e. suppliers are not allowed to make false statements about the product** – 31.4% of the respondents were extremely aware of the right to fair and honest dealings (i.e. suppliers are not allowed to make false statements about the product), while 26.9% were not aware at all. A further 16.3% showed slight awareness and 12.4% were “somewhat aware”, while 13.1% showed moderate awareness. The findings show that most of the respondents are extremely aware of the statement. Patterson (2010: 346) states that it is not that consumers are not aware of the need to carefully review the contract presented to them before signing, but because of the financial burden that they must deal with, they sometimes choose not to. The author adds that, since it is very expensive to seek legal opinion, they rather choose to sign and hope that nothing in the contract will be detrimental towards them;
- **Statement Six: The right to seek compensation and justice in case of breach of contract** – 33.2% of the respondents were not aware at all of the right to seek compensation and justice in case of a breach of contract, while 23.7% were extremely aware. A further 9.2% showed slight awareness, 11.7% were “somewhat aware” of the right and 22.3 % showed moderate awareness. The findings show that most of the respondents are not aware at all of the right to seek compensation and justice in case of a breach of contract. According to Kaashifa (2018: 3), consumers who are vulnerable have problems in accessing the redress mechanisms put in place for their protection. Therefore, accessing a redress system that is less expensive, less time-consuming and easy to understand by any ordinary consumer is of high importance; and

- Statement Seven: The right to take any complaint regarding a supplier to the commissioner or Consumer Court** – 37.5% of the respondents were not aware at all of the right to take any complaint regarding the supplier to the commissioner or Consumer Court, while 23.0% showed extreme awareness. Furthermore, 19.4% showed moderate awareness of the right, 5.7% showed slight awareness and 14.5% were somewhat aware. The findings show that most of the respondents were not aware at all of the right to take any complaint regarding a supplier to the commissioner or Consumer Court. Scott (2018: 33) submits that lodging a civil claim or taking the litigation route is expensive and intimidating to most consumers since most of them are not aware as to how to launch any legal proceedings.

4.7 The Consumer Protection Act and adequacy of protection for consumers from disadvantaged communities

The analysis of results for whether the CPA adequately protects consumers from disadvantaged communities is presented in this section. The respondents were asked to indicate their level of agreement relating to whether the CPA adequately protects them. Figure 4.11 below shows the results.

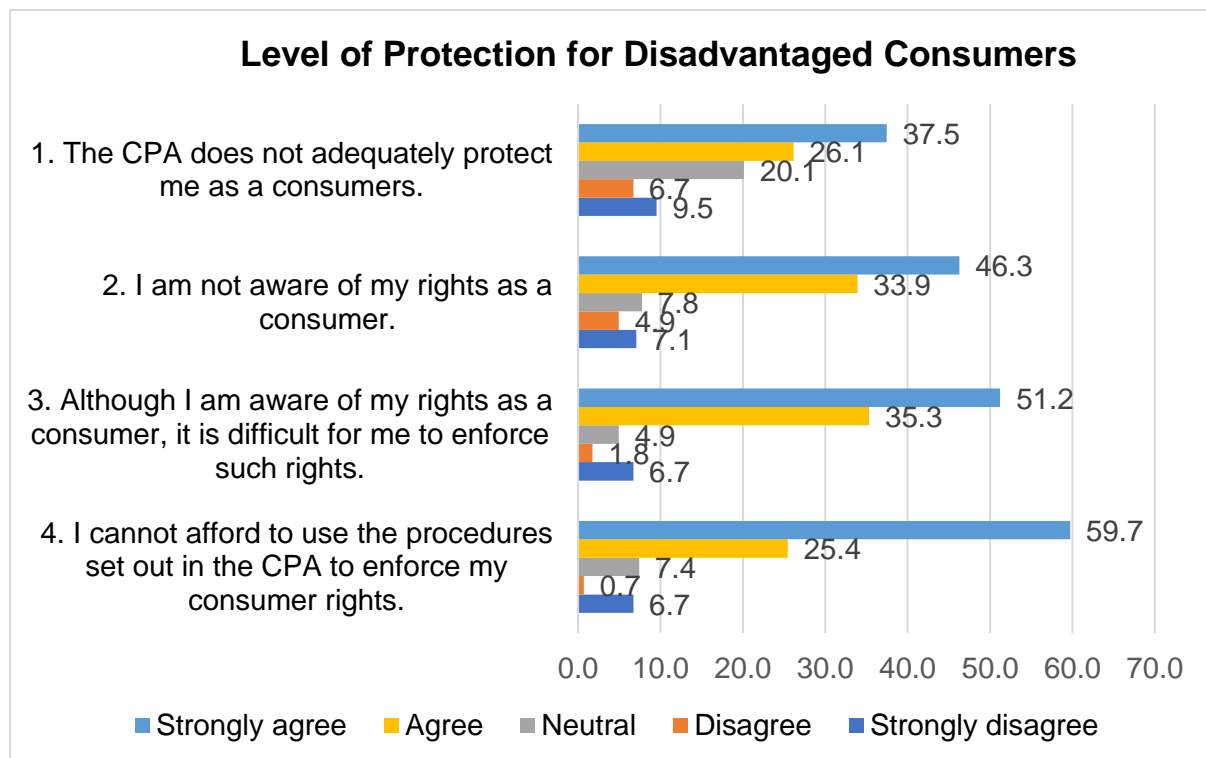


Figure 4.11: Does the CPA adequately Protects disadvantaged consumers

From the results shown in Figure 4.11 above, the following patterns are observed:

All statements show significantly higher levels of “Agreement”.

The results shown in Figure 4.11 above for the individual sub-themes reveal that:

- **Statement One: The CPA does not adequately protect me as a consumer-** Collectively, 63.6% of the respondents strongly agreed (37.5%) or agreed (26.1%) that the CPA, does adequately protect them as consumers, while 9.5% strongly disagreed and 6.7% disagreed with the statement. Furthermore, 20.1% were neutral. The findings show that the majority of respondents strongly agreed/agreed with the statement. According to Naude (2009: 505), the problems that are faced by consumers, especially the SED, which call for legislative protection, have not been adequately addressed;
- **Statement Two: I am not aware of my rights as a consumer –** Collectively, 80.2% of the respondents strongly agreed (46.3%) or agreed (33.9%) that they are not aware of their rights as consumers while 7.1% strongly disagreed and 4.9% disagreed with the statement. Furthermore, 7.8 were neutral. The findings show that the majority of the respondents strongly agreed/agreed with the statement. A study by Chiru (2017: 59400) found that programmes directed at enhancing knowledge of consumer protection legislation were not fully successfully implemented;
- **Statement Three: Although I am aware of my rights as a consumer, it is difficult for me to enforce such rights -** 86.5% of the respondents strongly agreed (51.2%) or agreed (35.3%) that although they are aware of their rights as consumers, it is difficult for them to enforce such rights, while 6.7% strongly disagreed and 1.8% disagreed with the statement, and a further 4.9% were neutral. The findings show that the majority of respondents strongly agreed/agreed with the statement. A study by Njuguna, Oloko and Oyugi (2014: 13) showed that most consumers were aware of their consumer rights, but the majority of them struggled with the use of the protection mechanisms in place in the event of an infringement; and
- **Statement Four: I cannot afford to use the procedures set out in the CPA to enforce my consumer rights –** Collectively, 85.1% of the respondents strongly agreed (59.7%) or agreed (25.4%) that they cannot use the procedures set out in the CPA to enforce their consumer rights, while 6.7% strongly

disagreed and 0.7% disagreed with this statement. The remaining 7.4% were neutral. The findings show that the majority of the respondents strongly agreed/agreed with the statement. According to Woker (2010: 230), due to the high cost of litigation and the impracticality of going to court for low-income customers, consumers lack the financial means to defend their rights.

4.8 Possible measures to address the contractual challenges faced by consumers from disadvantaged communities

The analysis of results for possible measures to address the contractual challenges faced by consumers from disadvantaged communities are presented in this section. The respondents were asked to indicate their level of agreement with the possible measures that can be taken to address contractual challenges faced by consumers and Figure 4.12 below shows the results.

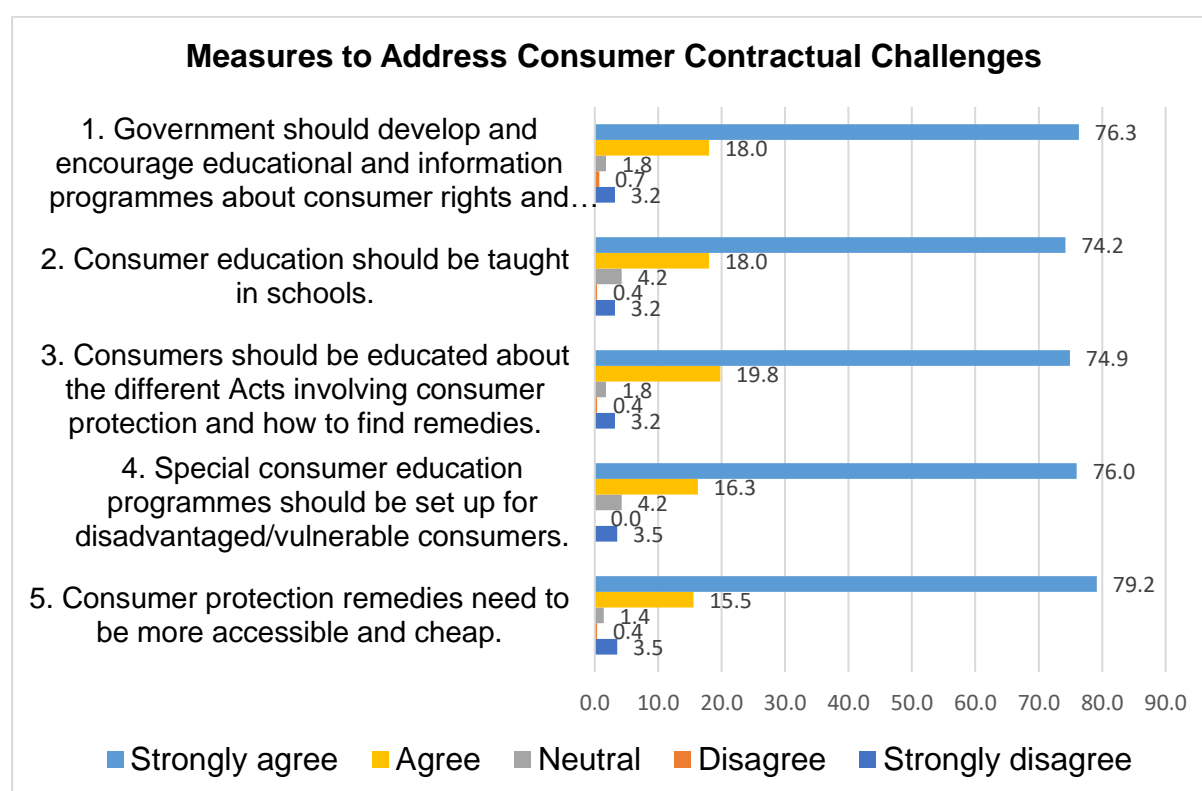


Figure 4.12: Possible measures to address contractual challenges faced by disadvantaged consumers

From the results shown in Figure 4.12 above, the following patterns are observed:

All statements show significantly higher levels of “Agreement” .

The results shown in Figure 4.12 above for the individual sub-themes reveal that:

- Statement One: Government should develop and encourage educational and information programmes about consumer rights and protection -** Collectively, 94.3% of the respondents strongly agreed (76.3%) or agreed (18.0%) that the government should develop and encourage educational and information programmes about consumer rights and protection, while 3.2% strongly disagreed and 0.7% disagreed with the statement. Furthermore, 1.8% were neutral. The findings show that the majority of respondents strongly agreed/agreed that the government should develop and encourage educational and information programmes on consumer rights and protection according to the preamble to the CPA (South Africa 2008), as the purpose of the Act includes promoting and providing for consumer education;
- Statement Two: Consumer education should be taught in schools –** Collectively, a majority (92.2%) of the respondents strongly agreed (74.2%) or agreed (18.0%) that consumer education should be taught in schools, while 3.2% strongly disagreed and 0.4% disagreed with the statement. Furthermore, 4.2% were neutral. The findings show that the majority of the respondents strongly agreed/agreed that consumer education should be taught in schools;
- Statement Three: Consumers should be educated about the different Acts involving consumer protection and how to find remedies –** Collectively, 94.7% of the respondents strongly agreed (74.9%) or agreed (19.8%) that consumers should be educated about the different Acts involving consumer protection and how to find remedies, while 3.2% strongly disagreed and 0.4% disagreed with statement. Furthermore, 1.8% were neutral. The findings show that the majority of the respondents strongly agreed/ agreed that consumers should be educated about the different Acts involving consumer protection and how to find remedies. In terms of Section 3(2) of the CPA (South Africa 2008), the National Consumer Commission is responsible for taking “reasonable and practical measures” to protect and advance the interests of all consumers;
- Statement Four: Special consumer education programmes should be set up for disadvantaged/vulnerable consumers –** Collectively, 92.3% of the respondents strongly agreed (76.0%) or agreed (16.3%) that special consumer programmes should be set up for disadvantaged/ vulnerable consumers, while 3.5% strongly disagreed and 0% disagreed with the statement. The remaining

4.2% were neutral. The findings show that the majority of the respondents strongly agreed/ agreed that special consumer programmes should be set up for disadvantaged/ vulnerable consumers. In addition to providing that the NCC is responsible for setting up measures to protect all consumers, Section 3 specifically provides for measures to protect vulnerable consumers (as defined in Section 3(1)(b); and

- **Statement Five: Consumer protection remedies need to be more accessible and cheap** - A combined response of 94.7% of the respondents strongly agreed (79.2%) or agreed (15.5%) that consumer protection remedies need to be more accessible and cheap, while 3.5% strongly disagreed and 0.4% disagreed with statement. A further 1.4% were neutral. The findings show that the majority of the respondents strongly agreed/agreed that consumer protection remedies need to be more accessible and cheap. Scott (2018: 33) submits that lodging a civil claim or taking the litigation route is expensive and intimidating to most consumers since most of them are not aware how to launch any legal proceedings.

4.9 Other contractual challenges that respondent may have experienced when concluding a contract with a supplier

In an open-ended question, the respondents were asked to comment on “any other contractual challenges” that they may have faced or experienced when concluding a contract. The responses are presented below in terms of relevant sub-themes:

- **Contract information is not fully disclosed to consumers to enable them to make informed decisions:**
 - Bought a phone and the salesman lied. When I returned the phone to the store, they denied it and said it was my choice;
- **Legal terms and the type of English used is difficult to understand:**
 - Contracts have difficult words to understand and was afraid to ask because they said other customers must be attended to;
- **Critical information is hidden, not easily seen by a consumer:**
 - In a contract, important information is hidden at the back, but you sign at the first page;

- **Consumers are rushed to sign and are not given enough time to read the contract:**
 - I signed lot of papers that I did not know what they are for, and it was not explained;
- **A copy of a contract is not provided to the other party:**
 - suppliers don't give consumers copies;
- **Fantasy promises that are not part of the contract:**
 - suppliers want us to take their word when it comes to a contract and later on deny everything; and
- **Unreasonable penalties for cancelling contracts:**
 - after cancelling contract still supplier deducted money.

4.10 Other possible measures to address the challenges the respondent or members of the community have experienced when dealing with contracts:

In an open-ended question, the respondents were asked to comment on any other possible measures to address the challenges they have experienced when dealing with contracts. The responses are presented below in terms of relevant sub-themes:

- **Visible CPA offices inside stores for convenient reporting:**
 - Have CPA offices inside the store so we can ask for help same time instead of travelling to many locations;
- **Frequently advertise consumer information:**
 - Show awareness in all media platforms;
- **Have periodic visitations from members of the consumer body to ensure compliance:**
 - There should be people who do regular check-ups in stores;
- **Introduce tighter penalties for non-compliance from suppliers:**
 - There should be tighter ways that are implemented so that consumers can enjoy maximum protection;
- **Educational facilities to assist in educating vulnerable consumers about their rights:**
 - The government should open up centres that allow consumers to get help and be taught about the CPA and how to act;

- **Government should support the establishing of informal forums in our communities that look out for consumer rights:**
 - There should be consumer forums, such as operation Dudula, to deal with such issues in our communities; and
- **Use of all 11 official languages in distributing important consumer information and not use one predominant language:**
 - There are many language barriers. This act should encourage the use of all languages when teaching consumers about their rights.

4.11 Reliability Statistics

The two most crucial characteristics of accuracy are validity and reliability. Several measurements on the same subjects can be taken to achieve it. For continuous development of a new construct, a reliability coefficient of 0.60 or above is regarded as "acceptable". Reliability was verified using the Cronbach alpha test, and the analysis is given below.

4.11.1 Cronbach's alpha scoring

Table 4.1 below reflects the Cronbach's alpha score for all the items that created the questionnaire.

	Section	Number of Items	Cronbach's Alpha
A4	Rating of language	4	0.600
B7	Challenges that you experience when concluding consumer contracts	6	0.819
B8	Contractual challenges of vulnerable consumers	8	0.900
C10	Level of awareness of each of the consumer rights	8	0.948
C11	Protection provisions that the CPA affords in respect of the contractual challenges of vulnerable consumers.	7	0.938
C12	Consumer Protection Act adequately protects consumers from disadvantaged communities	4	0.882

C13	Possible measures to address the contractual challenges faced by consumers from disadvantaged communities	5	0.935
Overall		42	0.828

Observations of the reliability scores in the table above show that for all sections that are listed, the scores exceed the recommended Cronbach's alpha value. This indicates a degree of acceptable, consistent scoring for these sections of the research.

4.12 Inferential Statistics

Trochim (2022: 1) is of the view that when a researcher uses inferential statistics, they are attempting to draw inferences about the population as a whole from sample data rather than just the immediate data. The author adds that descriptive statistics are only used to explain what is happening in the data, whereas inferential statistics are used to draw conclusions about more general circumstances from the data. In this study, the SPSS (version 27.0) software package was used to analyse the data for inferential statistical tests discussed below, namely factor analysis, Kaiser-Meyer-Olkin (KMO) and Bartlett Test of Sphericity. The analyses from the results of these tests are discussed below.

4.12.1 Factor Analysis

Yong and Pearce (2013: 79-80) state that factor analysis' overarching goal is to condense data so that correlations and patterns can be quickly examined and comprehended. The authors add that factor analysis relies on the idea that measurable and visible variables can be reduced to fewer latent variables that share a common variance and are unobservable, meaning that these unobservable factors are essentially hypothetical constructs that are used to represent variables rather than being directly measured. Factor analysis is a statistical method used in survey research when a researcher wants to represent a number of questions with a small number of invented variables. This makes it significant.

The discussion below presents the matrix table/s, preceded by a summarised table that reflects the results of the KMO and Bartlett's Test. The **KMO and Bartlett's Test** table below shows two tests that indicate the suitability of data for structure detection.

Factor analysis is done only for the Likert scale items. Certain components divided into finer components. This is explained below in the rotated component matrix.

4.12.2 KMO and Bartlett's Test

Glen (2023: 1) describes the Kaiser-Meyer-Olkin Test as one that examines sampling adequacy for each variable in the model and measures proportion of variance. It also determines how acceptable your data is for factor analysis.

High numbers (around 1.0) typically suggest that the data may benefit from a factor analysis. The results of the factor analysis are probably not going to be very relevant if the value is less than 0.50. Anon (2020: 1) defines Bartlett's test of sphericity as being used to test the hypothesis that the correlation matrix is an identity matrix, and this renders the variables disconnected and unsuitable for factor analysis. A component analysis may be helpful with the data if the significance level is low (less than 0.05).

Table 4.2 shows the results for the KMO and Bartlett's test

TABLE 4.2: KMO and BARTLETT'S TEST

	Section	Kaiser-Meyer-Olkin Measure of Sampling Adequacy	Bartlett's Test of Sphericity		
			Approx. Chi-Square	df	Sig.
A4	Rating of language	0.606	136.206	6	0.000
B7	Challenges that you experience when concluding consumer contracts	0.764	675.232	15	0.000
B8	Contractual challenges of vulnerable consumers	0.855	1839.852	28	0.000
C10	Level of awareness of each of the consumer rights	0.895	2255.338	28	0.000
C11	Protection provisions that the CPA affords in respect of the contractual challenges of vulnerable consumers.	0.874	1906.163	21	0.000

C12	Consumer Protection Act adequately protects consumers from disadvantaged communities	0.795	684.124	6	0.000
C13	Possible measures to address the contractual challenges faced by consumers from disadvantaged communities	0.893	1726.781	10	0.000

All of the conditions are satisfied for factor analysis.

The Kaiser-Meyer-Olkin Measure of Sampling Adequacy value should be greater than 0.500 and the Bartlett's Test of Sphericity sig. value should be less than 0.05.

4.12.3 Rotated Component Matrix

A4	Component
	1
English	0.798
IsiZulu	0.656
IsiXhosa	0.669
Afrikaans	0.568

Extraction Method: Principal Component Analysis.

a. 1 components extracted.

B7	Component	
	1	2
Suppliers are unwilling to change their pre-drafted contracts to assist my need as a consumer, e.g., re-adjusting payment time frames.	0.181	0.894
The pre-drafted terms in a standard form contract present challenges for me as a consumer.	0.195	0.895
The stores that are near me sell inferior quality goods compared to the stores in upmarket areas.	0.660	0.305
Sometimes I am required to buy more than one product or obtain an additional service from the supplier, where I do not actually want to buy the second product or obtain the service.	0.875	0.023

Suppliers make false, misleading or deceptive statements relating to the contract.	0.835	0.22 3
When I received the goods bought, they were unfit for use, or they had defects, or were not in a good working order.	0.618	0.48 2

Extraction Method: Principal Component Analysis.

Rotation Method: Varimax with Kaiser Normalization.

- a. Rotation converged in 3 iterations.
- b. # Challenges relating to Pre-drafted contracts
- c. # Challenges relating to goods bought by consumers

It is observed that the variables in Table B7 above that constituted the section on challenges experienced by consumers when concluding contracts loaded along two components (sub-themes). This means that respondents identified different trends within the section. Within the section, the splits are colour-coded and can be interpreted as follows: The trend of component 2 was identified as “challenges relating to Pre-drafted contracts”. The trend of component 1 was identified as “challenges relating to goods bought by consumer”.

B8	Component	
	1	2
Contracts are not written in plain and understandable language	0.894	0.196
Contracts are written in a language that is difficult for me to understand	0.904	0.149
Salespeople do not take time to clearly explain the contract terms in full detail before rushing me to sign.	0.872	0.326
In case of breach of contract by the supplier, I do not have information as to how and where to seek justice.	0.600	0.484
In the event of a breach by the supplier, I do not have the financial resources/money to take legal action.	0.833	0.128

It takes long to cancel a contract with a supplier as it requires the consumer to follow a lengthy process, therefore consumers settle for the poor performance.	0.273	0.876
Contracts contain terms that mostly favours the supplier, with little protection for the consumer.	0.181	0.909
Terms in standard form contracts which are pre-drafted, present challenges for the consumer as they were not negotiated by both parties.	0.155	0.904

It is observed that the variables in Table B8 above that constituted the section on contractual challenges, loaded along two components (sub-themes). This means that respondents identified different trends within the section. Within the section, the splits are colour coded and can be interpreted as follows: The trend of component 1 was identified as “challenges relating to the conclusion of contracts”, which reflected the sub-theme “Contracts are written in a language that is difficult for me to understand” as having the highest score of 0.904. The trend of component 2 was identified as “challenges relating to the consumer-supplier relationship”, which reflected the sub-theme “contracts contain terms that mostly favours the supplier, with little protection for the consumer” as having the highest score of 0.909.

C10	Component
	1
You have the right to disclosure: you must be made aware of all the information about the contract so that you can make informed decisions (Section 22)	0.848
You have the right to choose what goods you want to buy and which supplier you prefer to buy it from. The supplier is prohibited to bundle goods (Section 18).	0.913
Bundling of goods is prohibited, i.e. Where more than one products are grouped together and sold as a single unit for one price (Section 13)	0.867

You have a right to cancel a fixed term contract (e.g. for one year) upon expiry date without any penalties (Section 14).	0.813
You have the right to take complains to the consumer tribunal/court to enforce your rights or resolve a dispute (Section 69).	0.889
You have the right to privacy as a consumer and you can decline any unwanted communication from the supplier or any communication that is outside business hours (Section 11).	0.917
You have a right to goods that are of good quality, in good working order and free of any defects (Section 55).	0.772
When entering into a contract, a supplier is prohibited from using certain means to influence a consumer, such as physical force, undue influence or any unfair tactic (Section 40).	0.840

Extraction Method: Principal Component Analysis.

a. 1 components extracted.

C11	Component
	1
The right for consumer contracts to be drafted in plain and simple language that any ordinary consumer can understand.	0.759
The right to equality in the market and not be discriminated against in any manner by suppliers	0.788
The right to cancel any fixed- term contracts without any unnecessary/complicated processes.	0.845
The right to return defective goods.	0.874
The right to fair and honest dealings, i.e. suppliers are not allowed to make false statements about the product.	0.914
The right to seek compensation and justice in case of breach of contract	0.911
The right to take any complaint regarding supplier to the commissioner or consumer court.	0.882

Extraction Method: Principal Component Analysis.

a. 1 components extracted.

C12	Component
	1
The CPA does not adequately protect me as a consumers.	0.786
I am not aware of my rights as a consumer.	0.875
Although I am aware of my rights as a consumer, it is difficult for me to enforce such rights.	0.898
I cannot afford to use the procedures set out in the CPA to enforce my consumer rights.	0.894

Extraction Method: Principal Component Analysis.

a. 1 components extracted.

C13	Component
	1
Government should develop and encourage educational and information programmes about consumer rights and protection.	0.916
Consumer education should be taught in schools.	0.935
Consumers should be educated about the different Acts involving consumer protection and how to find remedies.	0.940
Special consumer education programmes should be set up for disadvantaged/vulnerable consumers.	0.943
Consumer protection remedies need to be more accessible and cheaper.	0.936

Extraction Method: Principal Component Analysis.

a. 1 components extracted.

In accordance with the tables above, the extraction method was the main component analysis, and the rotation method was Varimax with Kaiser Normalization. This orthogonal rotation technique reduces the number of variables that each factor is heavily loaded with. The factors' interpretation is made easier by this.

Inter-correlations between variables are shown using factor analysis or loading. Items of questions with comparable loading imply measurement along the same axis. In cases where items cross-loaded at greater than this value, an analysis of the content of those items loading at or above 0.5 (and using the higher or highest loading in those cases) effectively measured along the various components.

Sections A4, C10, C11, C12 and C13 are formed as perfectly loaded statements along a single component. This suggests that the statements that made up these sections accurately measured the things they were intended to test. The variables that made up Sections B7 and B8 loaded along 2 components (sub - themes). This indicates that many patterns within the area were noted by respondents. The divides within the section are colour-coded.

4.13 Cross-tabulations

Williams (2022: 1) defines cross-tabulation as a statistical tool used to inspect categorical data and see if there are any trends that are not easily identifiable. The author adds that it helps the researcher to understand how different variables may be related to each other. To evaluate if the variables were statistically connected, a Chi square test of independence was used (rows vs columns). According to the null hypothesis, there is no correlation between the two. The alternative theory suggests that there is a relationship. All p-values greater than 0.05 do not have a significant association for this analysis.

4.13.1 Cross-tabulation between "the pre-drafted terms in a standard-form contract present challenges for me as a consumer" and "main source of income in your home"

The results of the cross-tabulations between "the pre-drafted terms in a standard-form contract present challenges for me as a consumer" and "main source of income in your home" are indicated in Table 4.3 below. The results indicate that those respondents who indicated "salary/wage" as a source of income show much higher levels of agreement as compared to the other groups.

			Crosstab			
			Main source of income in your home			
			Salary/Wage	Government Grants	Other	Total
The pre-drafted terms in a standard form contract present challenges for me as a consumer	Strongly disagree	Count	2	2	3	7
		% within Main source of income	1,4%	2,3%	5,4%	2,5%
	Disagree	Count	9	8	1	18
		% within Main source of income	6,4%	9,3%	1,8%	6,4%
	Neutral	Count	21	12	12	45
		% within Main source of income	14,9%	14,0%	21,4%	15,9%
	Agree	Count	35	33	22	90
		% within Main source of income	24,8%	38,4%	39,3%	31,8%
	Strongly agree	Count	74	31	18	123
		% within Main source of income	52,5%	36,0%	32,1%	43,5%
Total	Count	141	86	56	283	
	% within Main source of income	100,0%	100,0%	100,0%	100,0%	

Table: 4.3 Cross tabulation between "the pre-drafted terms in a standard form contract present challenges for me as a consumer" and "main source of income in your home"

The p-value between "the pre-drafted terms in a standard-form contract present challenges for me as a consumer and main income of your home" is 0.023. This indicates that there is a significant relationship between the variables, which means that the source of income of the respondent did play a significant role in terms of how respondents viewed challenges when looking at pre-drafted agreements.

4.13.2 "Suppliers make false, misleading or deceptive statements relating to the contract" and "Highest level of education"

The outcomes of the cross-tabulations between "Suppliers make false, misleading or deceptive statements relating to the contract" and "Highest level of education" are indicated in Table 4.4 below. The results indicate that those respondents who indicated "no formal education" as a highest level of education show much higher levels of agreement as compared to the other groups.

Crosstab							
		Highest level of education					Total
		ormal educ	primary schout	did not cc	Matric	lege/Univer	
Suppliers n	Strongly dis	Count	0	0	0	0	3
		% within Hi	0,0%	0,0%	0,0%	0,0%	1,1%
	Disagree	Count	1	2	1	1	14
		% within Hi	5,6%	11,1%	1,5%	1,1%	4,9%
	Neutral	Count	5	2	5	11	34
		% within Hi	27,8%	11,1%	7,7%	12,4%	12,0%
	Agree	Count	1	7	24	44	113
		% within Hi	5,6%	38,9%	36,9%	49,4%	39,9%
	Strongly ag	Count	11	7	35	33	119
		% within Hi	61,1%	38,9%	53,8%	37,1%	42,0%
Total		Count	18	18	65	89	283
		% within Hi	100,0%	100,0%	100,0%	100,0%	100,0%

Table 4.4 “Suppliers make false, misleading or deceptive statements relating to the contract.” and “Highest level of education”

The P-value between “Suppliers make false, misleading or deceptive statements relating to the contract” and “Highest level of education” is 0.001. This indicates that there is a significant relationship between the variables, which means that the highest level of education of the respondent did play a significant role in terms of how respondents viewed contracts that are drafted by suppliers.

4.13.3 “The stores that are near me sell inferior quality goods compared to the stores in upmarket areas” and “Average income range per month in your home

The outcomes of the cross-tabulations between “The stores that are near me sell inferior quality goods compared to the stores in upmarket areas” and “Average income range per month in your home” are indicated in Table 4.5 below. The results indicate that those respondents who indicated to have “over R10 000” as an average income range per month in their home, show higher levels of agreement as compared to the other groups.

Crosstab							
		Average income range per month in your home					Total
		Under R 300 000	R 300 000 to R 5 000	R 5 001 to R 7 000	R 7 001 to R 10 000	Over R 10 000	
The stores	Strongly disagree	Count	2	2	1	0	5
		% within Av	1,4%	3,3%	3,6%	0,0%	1,8%
	Disagree	Count	17	0	1	0	19
		% within Av	12,2%	0,0%	3,6%	0,0%	6,7%
	Neutral	Count	17	13	3	3	37
		% within Av	12,2%	21,7%	10,7%	14,3%	13,1%
	Agree	Count	33	14	12	9	80
		% within Av	23,7%	23,3%	42,9%	42,9%	34,3%
	Strongly agree	Count	70	31	11	9	142
		% within Av	50,4%	51,7%	39,3%	42,9%	60,0%
Total	Count	139	60	28	21	35	283
	% within Av	100,0%	100,0%	100,0%	100,0%	100,0%	100,0%

Table 4.5 “The stores that are near me sell inferior quality goods compared to the stores in upmarket areas” and “Average income range per month in your home”

The p-value between “The stores that are near me sell inferior quality goods compared to the stores in upmarket areas” and “Average income range per month in your home” is 0.012. This indicates that there is a significant relationship between the variables, which means that the average income range per month in the home of the respondent did play a significant role in terms of how respondents viewed the quality of goods that stores near them sell compared to stores in upmarket areas.

4.13.4 “When I received the goods bought, they were unfit for use, or they had defects, or were not in a good working order” and “Highest level of education”

The outcomes of the cross-tabulations between “When I received the goods bought, they were unfit for use, or they had defects, or were not in a good working order” and “Highest level of education” are indicated in Table 4.6 below. The results indicate that those respondents who indicated “no formal education” as the highest level of education show higher levels of agreement as compared to the other groups.

Crosstab								
			Highest level of education					Total
			ormal educ	primary scho	ut did not co	Matric	lege/Univer	
When I received the goods bought, they were unfit for use, or they had defects, or were not in a good working order	Strongly disagree	Count	1	0	2	0	2	5
		% within Highest level of education	5,6%	0,0%	3,1%	0,0%	2,2%	1,8%
	Disagree	Count	0	1	4	1	11	17
		% within Highest level of education	0,0%	5,6%	6,2%	1,1%	11,8%	6,0%
	Neutral	Count	2	6	19	21	24	72
		% within Highest level of education	11,1%	33,3%	29,2%	23,6%	25,8%	25,4%
	Agree	Count	3	3	10	29	23	68
		% within Highest level of education	16,7%	16,7%	15,4%	32,6%	24,7%	24,0%
	Strongly agree	Count	12	8	30	38	33	121
		% within Highest level of education	66,7%	44,4%	46,2%	42,7%	35,5%	42,8%
Total	Count	18	18	65	89	93	283	
	% within Highest level of education	100,0%	100,0%	100,0%	100,0%	100,0%	100,0%	

Table 4.6 “When I received the goods bought, they were unfit for use, or they had defects, or were not in a good working order” and “Highest level of education”

The p-value between “When I received the goods bought, they were unfit for use, or they had defects, or were not in a good working order” and “Highest level of education” is 0.037. This indicates that there is a significant relationship between the variables, which means that the highest level of education for the respondent did play a significant role in terms of how respondents viewed the quality of goods when received from suppliers.

4.13.5 “When I received the goods bought, they were unfit for use, or they had defects, or were not in a good working order” and “Average income range per month in your home”

The grades of the cross-tabulations between “When I received the goods bought, they were unfit for use, or they had defects, or were not in a good working order” and “Average income range per month in your home” are indicated in Table 4.7 below. The results indicate that those respondents who indicated “R3000–R5000” as the average income range per month in their homes show higher levels of agreement as compared to the other groups.

Crosstab								
			Average income range per month in your home					Total
			Under R 300 000	R 300 000 to R 5 000	R 5 001 to R 7 000	R 7 001 to R 10 000	Over R 10 000	
When I received the goods bought, they were unfit for use, or they had defects, or were not in a good working order	Strongly disagree	Count	2	2	0	1	0	5
		% within Average	1,4%	3,3%	0,0%	4,8%	0,0%	1,8%
	Disagree	Count	4	3	2	3	5	17
		% within Average	2,9%	5,0%	7,1%	14,3%	14,3%	6,0%
	Neutral	Count	40	11	7	5	9	72
		% within Average	28,8%	18,3%	25,0%	23,8%	25,7%	25,4%
	Agree	Count	32	16	8	3	9	68
		% within Average	23,0%	26,7%	28,6%	14,3%	25,7%	24,0%
	Strongly agree	Count	61	28	11	9	12	121
		% within Average	43,9%	46,7%	39,3%	42,9%	34,3%	42,8%
Total	Count	139	60	28	21	35	283	
	% within Average	100,0%	100,0%	100,0%	100,0%	100,0%	100,0%	

Table 4.7: “When I received the goods bought, they were unfit for use, or they had defects, or were not in a good working order” and “Average income range per month in your home”

The p-value between “When I received the goods bought, they were unfit for use, or they had defects, or were not in a good working order” and “Average income range per month in your home” is 0.384. This indicates that there is a significant relationship between the variables, which means that the income range per month in their homes for the respondents did play a significant role in terms of how they viewed the quality of goods when received from suppliers.

4.13.6 “Sales-people do not take time to clearly explain the contract terms in full detail before rushing me to sign” and “Highest level of education”

The grades of the cross-tabulations between “Sales-people do not take time to clearly explain the contract terms in full detail before rushing me to sign” and “Highest level of education” are indicated in Table 4.8 below. The results indicate that those respondents who indicated having “no formal education” as the highest level of education show higher levels of agreement as compared to the other groups.

Crosstab								
			Highest level of education					Total
			ormal educ	primary schout	did not cc	Matric	lege/Univer	
Salespeople	Strongly disagree	Count	1	0	2	4	5	12
		% within Hi	5,6%	0,0%	3,1%	4,5%	5,4%	4,2%
	Disagree	Count	0	5	11	11	10	37
		% within Hi	0,0%	27,8%	16,9%	12,4%	10,8%	13,1%
	Neutral	Count	1	2	4	1	9	17
		% within Hi	5,6%	11,1%	6,2%	1,1%	9,7%	6,0%
	Agree	Count	4	5	12	29	28	78
		% within Hi	22,2%	27,8%	18,5%	32,6%	30,1%	27,6%
	Strongly agree	Count	12	6	36	44	41	139
		% within Hi	66,7%	33,3%	55,4%	49,4%	44,1%	49,1%
Total	Count	18	18	65	89	93	283	
	% within Hi	100,0%	100,0%	100,0%	100,0%	100,0%	100,0%	

Table 4.8: “Sales-people do not take time to clearly explain the contract terms in full detail before rushing me to sign” and “Highest level of education”

The p-value between “Sales-people do not take time to clearly explain the contract terms in full detail before rushing me to sign” and “Highest level of education” is 0.115. This indicates that there is a significant relationship between the variables, which means that the highest level of education of the respondent did play a significant role in terms of how respondents viewed how sales-people do not take time in assisting them during the process of signing contracts.

4.14 Correlations

Correlation analysis is a statistical technique used to determine if there is a connection between two variables and how strong that relationship might be (Flexmr 2019: 1). The Correlation table referred to is to be found in the Appendix. Positive values indicate a directly proportional relationship between the variables and a negative value indicates an inverse relationship. All significant relationships are indicated by a * or **.

The results of the directly proportional correlations are discussed below:

- Analysis one: The correlation between **“the stores that are near me sell inferior quality goods compared to other stores in up-market areas”** and **“when I received the goods bought, they were unfit for use, or they had defects, or were not in good working order”** is 0.538. This means that there is a significant directly proportional relationship between the variables. The

respondents indicated that the more consumers reported that stores near them sell inferior quality goods compared to other stores in up-market areas, the more likely it was that the goods were unfit for use, had defects or were not in good working order.

- Analysis two: The correlation between **“Pre-drafted terms in a standard-form contract present challenges for me as a consumer”** and **“Contracts are not written in plain and understandable language”** is 0.299. This means that there is a significant directly proportional relationship between the variables. The results indicated that the more businesses used pre-drafted standard-form contracts, the more likely it is that they are not written in plain and understandable language.
- Analysis Three: The correlation between **“Pre-drafted terms in a standard-form contract present challenges for me as a consumer”** and **“Contracts are written in a language that is difficult for me to understand”** is 0.439. This means that there is a significant directly proportional relationship between the two variables. The results indicated that the more the consumer had experienced challenges with pre-drafted terms in a standard-form contract, the more likely it is that the language is difficult for the consumer to understand.
- Analysis Four: The correlation between **“Suppliers make false, misleading or deceptive statements relating to the contract”** and **“Contracts contain terms that mostly favour the supplier, with little protection for the consumer”** is 0.490. This means that there is a significant directly proportional relationship between the two variables. The respondents indicated that the more suppliers included deceptive statements in contracts the more likely it is that contracts favour mostly the supplier.
- Analysis Five: The correlation between **“Suppliers are unwilling to change their pre-drafted contracts to assist my need as a consumer, e.g., re-adjusting payment time-frames”** and **“Sometimes I am required to buy more than one product or obtain an additional service from the supplier, where I do not actually want to buy the second product or obtain the service”** is 0.370. This implies that there is a significant directly proportional relationship between the two variables. The more suppliers are unwilling to

change their pre-drafted contracts to assist consumers' needs, the more likely it is that they end up buying unwanted additional goods or services.

- Analysis Six: The correlation between **“You have the right to choose what goods you want to buy and which supplier you prefer to buy it from. The supplier is prohibited to bundle goods (Section 18)”** and **“Bundling of goods is prohibited, i.e. Where more than one products are grouped together and sold as a single unit for one price (Section 13)”** is 0.795. This means that there is a significant directly proportional relationship between the two variables. The results show that the more respondents had knowledge of the right to choose, the more likely it was that they were aware that the bundling of goods and services is prohibited.

The following results of the indirectly proportional correlations are discussed below:

- Analysis Seven: The correlation between **“Suppliers make false, misleading or deceptive statements relating to the contract”** and **“You have the right to disclosure: you must be made aware of all the information about the contract so that you can make informed decisions (Section 22)”** is - 0.214. This means that there is a significant indirectly proportional relationship between the two variables. The respondents indicated that the more there is awareness of consumer rights, the less likely it is for consumers to be misled by deceptive statements in contracts.
- Analysis Eight: The correlation between **“Contracts are written in a language that is difficult for me to understand”** and **“You have a right to cancel a fixed-term contract (e.g., for one year) upon expiry date without any penalties (Section 14)”** is -0.382. This means that there is a significant indirectly proportional relationship between the two variables. The results show that the more contracts are written in language that is difficult for the consumer to understand, the less likely it is that they are aware of the consumer rights regarding contracts.
- Analysis Nine: The correlation between **“Contracts contain terms that mostly favour the supplier, with little protection for the consumer”** and **“You have a right to cancel a fixed-term contract (e.g., for one year) upon expiry date without any penalties (Section 14)”** is -0.178. This

means that there is a significant indirectly proportional relationship. The more contract terms favour the supplier, the less likely consumers will use or be aware of the consumer rights provided.

- Analysis Ten: The correlation between **“Contracts are written in a language that is difficult for me to understand”** and **“You have the right to take complaints to the consumer tribunal/court to enforce your rights or resolve a dispute (Section 69)”** is -0.396. This means that there is a significant indirectly proportional relationship. The more contracts are written in a language that is difficult for the consumer to understand, the less likely it is that they are aware of the right to take complaints to the consumer court/tribunal for dispute resolution.

4.15 Hypothesis testing

Hypothesis testing is a way for the researcher to test the results of a survey to see if they have meaningful results (Glen 2023: 1). A p-value is generated from a test statistic. For all values with an *, a significant result is indicated with " $p < 0.05$ ". For all values with an **, a significant result is indicated with " $p < 0.01$ ".

To ascertain whether there was a statistically significant association between the variables, a Chi square test was used (rows vs columns). According to the null hypothesis, there is no correlation between the two variables. The alternative theory suggests that the variable and the other are related. The analysis of the results are discussed below:

4.15.1 **Contracts are written in a language that is difficult for me to understand versus Pre-drafted terms in a standard-form contract present challenges for me as a consumer**

This sections examines the relationship between “contracts are written in a language that is difficult for me to understand” and “pre-drafted terms in a standard-form contract present challenges for me as a consumer”. As shown in Table 4.9 below, the p-value between contracts are written in a language that is difficult for me to understand and pre-drafted terms in a standard form contract present challenges for me as a consumer is 0.000. This shows that there is a significant relationship between the two variables, implying means that “contracts that are written in a language that is difficult for

consumers to understand” plays a significant role in “consumer challenges arising from pre-drafted terms in a standard-form contract”.

	Pre-drafted terms in a standard-form contract present challenges for me as a consumer	
Contracts are written in a language that is difficult for me to understand	Pearsons Co-efficient .439**	P-Value 0.000
**. Correlation is significant at the 0.01 level (2-tailed).		

Table 4.9 Chi square test: Contracts are written in a language that is difficult for me to understand versus Pre-drafted terms in a standard form contract present challenges for me as a consumer

4.15.2 You have the right to disclosure: you must be made aware of all the information about the contract so that you can make informed decisions versus Suppliers make false, misleading or deceptive statements relating to the contract

This sections examined the relationship between “**You have the right to disclosure: you must be made aware of all the information about the contract so that you can make informed decisions**” and “**Suppliers make false, misleading or deceptive statements relating to the contract**”. As shown in Table 4.10 below, the p-value is 0.000. This shows that there is a significant relationship between the two variables, meaning that consumers being aware of the right to disclosure, i.e. to be made aware of all the information about the contract so that they can make informed decisions, plays a significant role in them not being misled by suppliers who make false, misleading or deceptive statements relating to the contract.

	Suppliers make false, misleading or deceptive statements relating to the contract	
You have the right to disclosure: you must be made aware of all the	Pearsons Co-efficient -.214**	P-Value 0.000

information about the contract so that you can make informed decisions		
**. Correlation is significant at the 0.01 level (2-tailed).		

Table 4.10 Chi square test: You have the right to disclosure: you must be made aware of all the information about the contract so that you can make informed decisions versus Suppliers make false, misleading or deceptive statements relating to the contract

4.15.3 Contracts containing terms that mostly favour the supplier, with little protection for the consumer versus It takes long to cancel a contract with a supplier as it requires the consumer to follow a lengthy process, therefore consumers settle for the poor performance

This sections examined the relationship between “contracts containing terms that mostly favours the supplier, with little protection for the consumer” versus “It takes long to cancel a contract with a supplier as it requires the consumer to follow a lengthy process, therefore consumers settle for the poor performance”. As shown in Table 4.11 below, the p-value is 0.000. This shows that there is a significant relationship between the two variables, meaning that contracts containing terms that mostly favour the supplier, with little protection for the consumer, do have a significant role in consumers settling for the poor performance as it takes long to cancel a contract with a supplier, which requires the consumer to follow a lengthy process.

	It takes long to cancel a contract with a supplier as it requires the consumer to follow a lengthy process, therefore consumers settle for the poor performance	
Contracts containing terms that mostly favour the supplier, with little protection for the consumer	Pearsons Co-efficient .821**	P-Value 0.000

******. Correlation is significant at the 0.01 level (2-tailed).

Table 4.11 Chi square test: Contracts containing terms that mostly favour the supplier, with little protection for the consumer versus It takes long to cancel a contract with a supplier as it requires the consumer to follow a lengthy process, therefore consumers settle for the poor performance

4.16 Conclusion

In this chapter, the results from the empirical study were presented and analysed through a sectional analysis of the research instrument. Tables, graphs and pie charts were used to show the findings, which included a full analysis of the data and references to pertinent literature. The different fundamental consumer rights were explored in detail as to how they protect the consumer, and also examined whether the consumer is aware of such protection. The consumers' awareness of their rights is significant since, if consumers are not aware, businesses could most likely take advantage of the situation. Hence, the results presented, which were based on the data collected through the survey questionnaire, did bring to light some key findings in this regard.

From the total sample of 283 respondents, the majority were in the age-group 18-29 years. The majority of the respondents also had either a matric certificate or university degree as the highest qualification. Since the majority of the respondents came from households with an income that is under R3000 per month, this did indicate that affordability of the redress mechanisms stated in the CPA is one of the major problems they face. Almost half of the respondents indicated that they were not aware at all of the provisions that the CPA offered consumers in the marketplace, and the majority of the respondents confirmed that they did face many of the challenges listed in the survey instrument, which highlighted some of the many contractual challenges that they face as consumers.

The analysis of data was performed through the use of various statistical tools, namely SPSS v 27.0 for the section analysis and for the inferential analysis, the Chi square and KMO and Battlett's Test. Reliability was tested through the Cronbach alpha scoring with a recommended score of 0.60 for acceptability. The score for all sections of the instrument was exceeded, suggesting that all sections presented are consistent.

The next chapter presents a summary of the findings, as well as the conclusions and recommendations from the study.

CHAPTER 5

CONCLUSION AND RECOMMENDATIONS

5.1 Introduction

The study aimed to examine the consumer rights of the socio-economically disadvantaged as vulnerable consumers, as well as the role of the Consumer Protection Act 68 of 2008 in protecting such consumers and addressing the consumer challenges they encounter in the marketplace. This chapter summarizes the findings from the empirical study and the conclusions drawn in relation to the objectives of the study. Thereafter, key recommendations from the study are presented based on the conclusions drawn, including what can be done to ensure increased consumer awareness of the fundamental rights and effective protection for vulnerable consumers when dealing with suppliers.

5.2 Objectives of the study

The objectives of the study as stated in Chapter 1 are as follows:

- To examine the concept of vulnerable consumers and socio-economic disadvantage as grounds for vulnerability;
- To explore how the socio-economic environment of consumers who are disadvantaged contributes to the challenges they face in respect of contractual agreements with businesses, particularly relating to unfairness;
- To determine the level of awareness of consumers who face socio-economic disadvantage with respect to their consumer rights and protection; and
- To determine whether the Consumer Protection Act 68 of 2008 adequately protects socio-economically disadvantaged consumers, and if not, what measures can be used to address such challenges.

5.3 Summary of findings

The questionnaire was the primary tool used to collect data and was distributed to consumers who reside in Illovo in the Bhekulwandle area. In total, 283 questionnaires were dispatched and all 283 were returned, which gave a 100% response rate. The questionnaire was divided into 3 major sections which measured various themes as illustrated below:

A. Biographical Data

B. Contractual challenges of vulnerable consumers

C. Awareness of consumer rights in terms of the Consumer Protection Act 68 of 2008.

The findings for the sub-themes in Sections B and Section C of the research instrument are summarised below:

5.3.1 Challenges experienced by consumers when concluding consumer contracts

With respect to the consumer challenges experienced by respondents when concluding contracts, the findings show that:

- The majority of respondents agreed that suppliers are unwilling to change their pre-drafted contracts to assist their needs as consumers, e.g., by re-adjusting payment time-frames;
- The majority of respondents also agreed that pre-drafted terms in a standard form contract present challenges for them as consumers;
- With respect to the quality of goods sold, the majority of respondents agreed that stores near them sell inferior quality goods compared to the stores in upmarket areas;
- The majority of respondents agreed that, occasionally, they are required to buy more than one product or obtain an additional service from the supplier, where they do not actually want to buy the second product or obtain the service;
- Furthermore, the majority of respondents also agreed that suppliers make false, misleading or deceptive statements relating to the contract; and
- With respect to the condition of the goods received, the majority of respondents agreed that when they received goods that they bought, they were unfit for use, or they had defects, or were not in good working order.

5.3.2 Contractual challenges of vulnerable consumers

As far as the contractual challenges of vulnerable consumers are concerned, the findings show that:

- The majority of respondents agreed that contracts are not written in plain and understandable language;

- The majority also agreed that contracts are written in a language that is difficult for them to understand;
- Furthermore, the majority agreed that salespeople do not take time to explain contracts before asking them to sign;
- In the case of a breach of contract by the supplier, the majority of respondents agreed that they do not have information as to how and where to seek justice;
- In the case of a breach of contract, the majority agreed that they do not have enough money to take legal action;
- The majority also agreed that it takes long to cancel a contract with a supplier as it requires the consumer to follow a lengthy process. Therefore, consumers settle for the poor performance;
- With respect to inequality in the negotiation of contracts, the majority of respondents agreed that contracts contain terms that mostly favor the supplier, with little protection for the consumer; and
- The majority also agreed that terms in standard-form contracts, which are pre-drafted, present challenges for them as consumer as they were not negotiated by both parties.

5.3.3 Other contractual challenges that the respondent may have experienced when concluding a contract with a supplier

With respect to the respondents' contractual challenges experienced when contracting with the supplier, the following aspects were mentioned: contract information is not fully disclosed to consumers to enable them to make informed decisions; legal terms and the type of English used is difficult to understand; critical information is hidden and not easily seen by the consumer; consumers are rushed to sign and are not given enough time to read the contract; a copy of the contract is not provided to the other party; unrealistic promises are made to consumers that are not part of the contract; and dealing with unreasonable penalties for cancelling contracts.

5.3.4 Awareness of consumer rights under the CPA

With respect to the respondents' awareness of consumer rights under the CPA, the findings showed that:

- The majority of respondents were not aware at all of:
 - The consumer right to disclosure;
 - That bundling of goods is prohibited;
 - of the right to take complaints to the Consumer tribunal/Court to enforce their rights or to resolve a dispute;
 - That they have a right to cancel a fixed-term contract upon expiry without penalty; and
 - With regard to the right to privacy, the respondents were not aware at all that they can decline unwanted communication from the supplier
- Almost half of the respondents were not aware at all of the consumer right to choose;
- A little less than half of the respondents were not aware at all that they have a right to goods that are of good quality, in good working order and free of any defects; and
- Almost half of the respondents were not aware at all that a supplier is prohibited from using certain means to influence a consumer, such as physical force, undue influence or any unfair tactic.

5.3.5 CPA protection provisions for contractual challenges faced by vulnerable consumers

Regarding the CPA's protection provisions for contractual challenges faced by vulnerable consumers, the findings showed that:

- A significant proportion of the respondents were not aware at all that consumer contracts should be drafted in simple and plain language that any ordinary consumer can understand;
- The majority of the respondents were extremely aware of the right to equality; the right not to be discriminated against by business and the right to fair and honest dealings;
- The majority of respondents were not aware at all of the right to cancel any fixed-term contracts without any complicated processes; the right to seek

compensation and justice in case of breach of contract; and the right to take any complaint regarding suppliers to the commissioner or Consumer Court; and

- A significant number of respondents were extremely aware of the right to return defective goods.

5.3.6 Whether the CPA adequately protects disadvantaged consumers

With respect to whether the CPA adequately protects disadvantaged consumers, the findings showed that:

- The majority of respondents agreed that the CPA does not adequately protect them as consumers;
- The majority also agreed that they were not aware of their rights as consumers;
- With respect to the enforcement of rights, the majority of respondents agreed that even if they were aware of their rights as a consumer, it is difficult for them to enforce such rights; and
- The majority of respondents also agreed that they cannot afford to use the procedures set out in the CPA to enforce their consumer rights.

5.3.7 Possible measures to address the contractual challenges faced by respondents from disadvantaged communities

With regard to possible measures to address the contractual challenges faced by respondents from disadvantaged communities, the findings showed that:

- The majority of the respondents agreed that the government should develop and encourage educational and information programmes about consumer rights;
- The majority also agreed that consumer education should be taught in schools;
- With respect to consumer education, the majority agreed that consumers should be educated on the different Acts involving consumer protection and how to find remedies;
- The majority also agreed that special consumer programmes should be set up for disadvantaged/vulnerable consumers; and

- the majority again agreed that consumer protection remedies need to be more accessible and cheaper.

5.3.8 Other Possible measures to address the challenges that respondents or members of the community have experienced when dealing with contracts

Regarding the respondents suggestions on other possible measures to address challenges, the following were mentioned: there should be visible CPA offices inside stores for convenient reporting by consumers, instead of them travelling to many locations; there should be frequent advertising about consumer information on all media platforms; there should be people who do regular checks on suppliers; more stringent penalties for non-compliance from suppliers should be introduced; there should be educational facilities to assist in educating vulnerable consumers about their rights; government should support the establishment of informal forums in communities to protect their consumer rights; and all 11 official languages should be used in distributing important consumer information, not only one predominant language.

5.4 Conclusions

The conclusions from the literature review and the empirical study are set out below.

5.4.1 Conclusions from the literature review

The conclusions from the literature review are drawn with respect to the various sub-themes.

5.4.1.1 Consumer agreements and socio-economically disadvantaged

Disadvantaged consumers are those consumers who lack skills that are beneficial to them as consumers; they have little educational background which limits them in gathering the available information in order to make an informed decision; and limited ability to critically evaluate all vendors in the consumer market before deciding to purchase a good/service (Hirst 2018: 5).

With respect to the sub-theme “consumer contracts” and “being socio-economically disadvantaged”, the following conclusions can be drawn:

- Vulnerable consumers, who are more prone to information asymmetry and severe power inequality, frequently lack the freedom to negotiate the terms of their contracts for goods or services (Shearer 2010: 1);
- Therefore, the low levels of literacy in South Africa particularly in rural regions, which may be related to the unequal distribution of basic resources such as education and other essential infrastructure, is one of the key factors driving the need for new consumer protection legislation; and
- Many consumers lack the necessary education to fully comprehend their rights, putting them at risk of exploitation by suppliers (Mugobo and Malunga 2015: 225).

5.4.1.2 Awareness of the Consumer Protection Act

With respect to awareness of the CPA, the following conclusions can be drawn:

- Vulnerable consumers are in great need of legal protection in the consumer market, especially those residing in rural or under-developed areas.
- Disadvantaged consumers were not aware of the consumer rights that are afforded; and
- Even if they were afforded these consumer rights, the costs involved in enforcing such rights are prohibitive.

5.4.1.3 Consumer Protection Act 68 of 2008 and protection for SED consumers

On the issue as to whether the CPA adequately protects SED consumers, the following conclusions can be drawn:

- The CPA appears to offer protection primarily to the average consumer and provides little protection for SED consumers;
- The procedures set out in the CPA for dispute resolution are expensive for disadvantaged consumers; and
- The respondents felt they are not protected enough by the legislation, and that there are many aspects that can be improved for them as consumers.

5.4.1.4 Possible measures to address the contractual challenges faced by disadvantaged consumers

With regard to possible measures to address the contractual challenges faced by disadvantaged consumers, the following conclusions can be drawn:

- The government should develop and encourage educational and information programmes about consumer rights;
- Consumer education should be taught in schools;
- Consumers should be educated about the different pieces of legislation involving consumer protection and how to find remedies;
- Special consumer programmes should be set up for disadvantaged/vulnerable consumers; and
- Consumer protection remedies need to be more accessible and cheaper.

5.5 Conclusions from the Empirical study

5.5.1 Challenges experienced by consumers when concluding consumer contracts

With regard to the challenges experienced by consumers when concluding consumer contracts, the following conclusions can be drawn:

- With respect to pre-drafted contracts, disadvantaged consumers faced the following challenges:
 - Suppliers were unwilling to change their pre-drafted contracts to assist the needs of consumers, (e.g., by re-adjusting payment time-frames);
 - Pre-drafted terms in a standard form contract present challenges for consumers;
- With regard to the quality of goods and services, disadvantaged consumers faced the following challenges:
 - Stores that are near them sell inferior quality goods compared to the stores in upmarket areas;
 - They were required to buy more than one product or obtain an additional service from the supplier, where they do not actually want to buy the second product or obtain the service; and

- Suppliers make false, misleading or deceptive statements relating to the contract and when they received goods that they bought, they were unfit for use, or they had defects, or were not in good working order.

5.5.2 Contractual challenges of vulnerable consumers

As far as the contractual challenges of vulnerable consumers are concerned, the following conclusions can be drawn:

- With respect to language used, disadvantaged consumers experienced the following challenges: contracts are not written in plain and understandable language; contracts are written in a language that is difficult for them to understand; salespeople do not take time to clearly explain the contract terms in full detail before rushing consumers to sign; in the case of a breach of contract by the supplier, they do not have information about how and where to seek justice;
- Regarding why disadvantaged consumers do not take legal action in the event of a breach of contract, the following conclusions can be drawn:
 - In the event of a breach by the supplier, consumers do not have the financial resources/money to take legal action;
 - It takes long to cancel a contract with a supplier as it requires the consumer to follow a lengthy process, hence consumers settle for the poor performance;
 - Contracts contain terms that mostly favours the supplier, with little protection for the consumer; and
 - Terms in standard-form contracts, which are pre-drafted, present challenges for consumers as they were not negotiated by both parties.

5.5.3 Other contractual challenges that the respondent may have experienced when concluding a contract with a supplier

With respect to the respondents' contractual challenges experienced when contracting with the supplier, the following conclusions can be drawn:

- Contract information is not fully disclosed to consumers to enable them to make informed decisions;

- Legal terms and the type of English used are difficult to understand;
- Critical information is hidden and not easily seen by the consumer;
- Consumers were rushed to sign and were not given enough time to read the contract;
- A copy of the contract is not provided to the other party;
- Unrealistic promises that were not part of the contract were made to consumers; and
- Consumers have to deal with unreasonable penalties for cancelling contracts.

5.5.4 Awareness of consumer rights under the CPA

With regard to awareness of consumer rights and protection in terms of the CPA, the following conclusions can be drawn:

- Consumers were not aware at all:
 - Of the consumer's right to disclosure; that bundling of goods is prohibited; and of the right to take complaints to the consumer tribunal/court to enforce their rights or to resolve a dispute;
 - That they have a right to cancel a fixed-term contract upon expiry without penalty; of the right to privacy; and the consumer right to choose;
 - Of the right to goods that are of good quality, in good working order and free of any defects; and
 - That suppliers are prohibited from using certain means to influence a consumer, such as physical force, undue influence or any unfair tactic.

5.5.5 CPA protection provisions for contractual challenges faced by vulnerable consumers

Regarding the CPA's protection provisions for contractual challenges faced by vulnerable consumers, the following conclusions can be made:

- With respect to consumer rights and protection for vulnerable consumers in terms of the CPA, the Act provides that:
 - Consumer contracts should be drafted in simple and plain language that any ordinary consumer can understand;

- Consumers have the right to equality and the right not to be discriminated against by business;
- They also have the right to cancel any fixed-term contracts without any complicated processes; and the right to return defective goods; and
- They are also afforded the right to fair and honest dealings; the right to seek compensation and justice in the case of a breach of contract; and the right to take any complaint regarding suppliers to the commissioner or Consumer Court.

5.5.6 Whether the CPA adequately protects disadvantaged consumers

In terms of whether the CPA adequately protects disadvantaged consumers, the following conclusions can be drawn:

- The CPA does not adequately protect vulnerable consumers;
- Such individuals were not aware of their rights as consumers; and
- With respect to the affordability of the procedures that are set out in the CPA, the following conclusions can be drawn:
 - Although vulnerable consumers were aware of the procedures available to them as consumers, it is difficult for them to enforce such rights; and
 - They cannot afford to use the procedures set out in the CPA to enforce their consumer rights.

5.5.7 Possible measures to address the contractual challenges faced by consumers from disadvantaged communities

With regard to possible measures to address the contractual challenges faced by consumers from disadvantaged communities, the following conclusions can be drawn:

- The government should develop and encourage educational and information programmes about consumer rights;
- Consumer education should be taught in schools and consumers should be educated about the different statutes providing for consumer protection and how to find remedies;
- Special consumer programmes should be set up for disadvantaged/vulnerable consumers; and

- Consumer protection remedies need to be more accessible and cheaper.

5.5.8 Other Possible measures to address the challenges that respondents or members of the community have experienced when dealing with contracts

In terms of respondents' suggestions on other possible measures to address these challenges, the following were suggested: there should be visible CPA offices inside stores for convenient reporting by consumers, instead of them travelling to many locations; and there should be frequent advertising about consumer information on all media platforms. There should also be people who do regular checks on suppliers; more stringent penalties for non-compliance from suppliers should be introduced; and there should be educational facilities to assist in educating vulnerable consumers about their rights. In addition, government should support the establishment of informal forums in communities to protect their consumer rights; and finally, all 11 official languages should be used in distributing important consumer information, not just one predominant language.

5.6 Recommendations in relation to the main themes of the study

Based on the main themes of the study, the following recommendations can be made:

Challenges experienced by consumers when concluding consumer contracts

- Visible CPA offices should be set up inside stores for convenient consumer reporting;
- Consumer rights and protection should be frequently advertised for maximum awareness;
- There should be external officials who do regular check-ups at stores to ensure compliance;
- Consumer information should be made available in all 11 official languages;
- Stringent penalties should be introduced for non-compliance by suppliers;
- Staff members in stores should implement a fast response system when assisting consumers and avoid re-calling consumers to the store for the same issue; and

- Staff members should be trained regularly on how to assist consumers in order to make informed decisions and on how to give special attention to vulnerable consumers so they are ignored when they seek assistance.

Awareness of consumer rights under the CPA

The following recommendations are made with respect to creating awareness amongst consumers about their rights:

- Educational facilities to assist in educating vulnerable consumers about their rights;
- Government should support the establishment of informal forums in communities to protect their consumer rights;
- There should be on-going investment in consumer education that reaches out to under-developed communities;
- Consumer rights and remedies should be displayed inside stores so that consumers are exposed to such information;
- Use the same data that businesses use for marketing to also distribute consumer information to accommodate the emerging digital age; and
- The use of all popular media platforms to advertise updated consumer information and to inform consumers about recent decisions in consumer cases.

Figure 5.1 Below sets out a graphical representation of the study based on the conclusions and recommendations set out above. In a nutshell it describes who are disadvantaged consumers, sets out the challenges they face when concluding contracts, the existing protection offered by the CPA. It then shows the consumer rights that SED consumers are unaware of, followed by comments on the adequacy of existing protection for vulnerable consumers. Finally, a summary of measures to address the challenges of disadvantaged consumers are indicated.

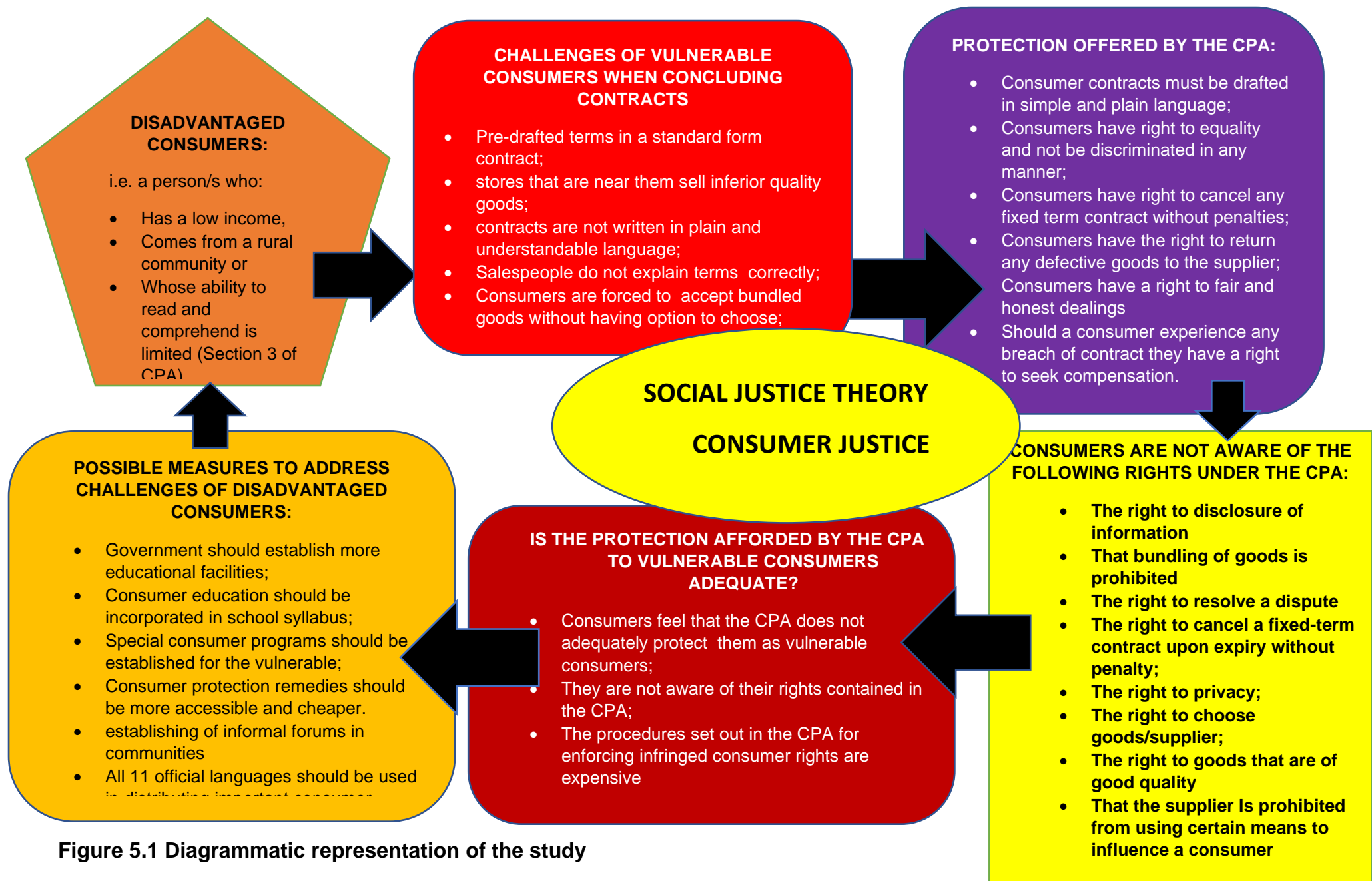


Figure 5.1 Diagrammatic representation of the study

5.7 Limitations of the study

In relation to this empirical study conducted, the following is a summary of the limitations experienced by the researcher:

- The study focused on consumers in the Illovo area, particularly Bhekulwandle. Hence, consumers in the outer areas were not included and the results may not be representative of the population in those areas; and
- The study adopted a systematic sampling (probability sampling) method. Only respondents that were 18 years and older were selected. Consumers who were below the age of 18 and those who did not reside in Bhekulwandle were not part of the study.

5.8 Recommendations for further research

It is recommended that a similar study be carried out on a larger scale, i.e. not focusing only on vulnerable consumers of Illovo, but which will include consumers from other areas as well. Moreover, a survey may be conducted to collect data to ascertain the views of suppliers, officials from the Consumer Commission and store owners, in order to assess the effectiveness of the consumer protection legislation.

5.9 Closing remarks

Although the concept of consumer protection is not new in South African law, the Consumer Protection Act 68 of 2008 now offers a significantly wider and more comprehensive framework to safeguard customers. not just in the provision of products and services or the signing of contracts, but also in their marketing and promotion. In addition, the CPA offers extra protection to a specific category of consumer, namely the customer who is vulnerable (Barnard 2015: 1).

Reaching all customers, including "vulnerable" consumers, is the objective of consumer policy during these modern times. With this strategy, the government considers what are known as the "diverse viewpoints of consumers," which are based on the notion that consumer knowledge, interests and wants will vary depending on skills and markets (Aigeltinger 2015: 2). This study explored the blueprint of the CPA in areas that are mostly resided by socio-economically disadvantaged (SED) consumers and the findings therefore focussed on the level of protection that the CPA

affords to such consumers and their awareness thereof. Clearly, there is a need for law-makers to ensure that all consumers are protected by such legislation, and this certainly demands more effort from government, suppliers and industry bodies.

The study therefore showed that compliance from suppliers and service providers with the current consumer legislation is an imperative, particularly in a developing country such as South Africa, so that the consumer inequality gap can be narrowed, poor service delivery can be addressed, and social justice can be achieved.

In closing:

“There is place in the world for any business that takes care of its customers – after the sale” – **Harvey MacKay**.

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EDITOR'S LETTER

Researchers Beyond-Borders (PTY)
Umhlanga, Durban
South Africa
1 November 2022

To whom it may concern

Editing of Masters Dissertation: Lindeka Tentu (Student number -21602879)

This letter serves as confirmation that the dissertation put together by Lindeka Tentu has been language edited. Any queries may be directed to the author of this letter.



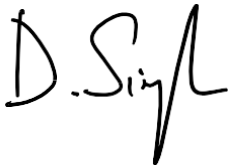
Regards

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STATISTICIAN DECLARATION FOR CONSULTATION

This is to confirm that I have given appropriate recommendations relating to the student's research:

Student Name	Lindeka Tentu
Student number	21602879
Title	Consumer Rights and Challenges of The Socio-Economically Disadvantaged and The Implications of The Consumer Protection Act 68 of 2008
Department	Applied Law
Faculty	Management Sciences

	3 May 2022
Deepak Singh DUT Panel of Statisticians	Date



LETTER OF INFORMATION

Title of the Research Study: Consumer Rights And Challenges Of The Socio-Economically Disadvantaged And The Implications Of The Consumer Protection Act 68 Of 2008

Principal Investigator/s/researcher: Miss Lindeka Tentu (B:Tech Management: Business law).

Co-Investigator/s/supervisor/s: Prof K. Reddy, Department of Applied Law (Supervisor)

Greetings to you. I hope you are keeping well in these trying times. I would like to invite you to participate in this research study examining the challenges faced by socio-economically disadvantaged consumers and the implications of consumer law.

What is Research: Research is a systematic search or enquiry for generalized new knowledge.

In order to complete my Master's degree in Management Sciences (specializing in Business law), I am conducting a research study. This study investigates the challenges of the socio-economically disadvantaged consumers and the implications of the associated consumer rights in terms of the Consumer Protection Act (CPA) with respect to such challenges. The study will collect valuable information that will assist consumers who are socio-economically disadvantaged and raise their awareness of their consumer rights in terms of the CPA and the protection that is afforded to them as a means to resolve such consumer challenges.

The study:

- Explores the contractual challenges experienced by consumers who are disadvantaged as a result of being vulnerable consumers;
- Investigates the level of awareness regarding consumer rights in terms of the CPA with respect to such challenges; and
- Will determine whether the CPA provides enough protection with respect to these challenges that consumers face and what can be done to close the gap.

Outline of the Procedures: You have been selected to participate voluntarily for this study. The information you will provide will assist in highlighting the contractual challenges you face as a consumer and the understanding of the available consumer rights which will help in determining whether there is adequate protection for socio-economically disadvantaged consumers. You may withdraw from participating from the study at any time no reasons will be demanded from you, the study will take at Illovo township (Bhekulwandle) area the survey will take about 10 – 15 minutes to complete.

Please note that there are no risks or discomfort to be experienced by the participants in this study. You may withdraw at any time from the study if you feel any discomfort. Participation in this study is entirely voluntary and there will be no repercussions should you withdraw at any stage. With respect to the benefits of the study, the information gathered will assist in highlighting the contractual challenges that consumers face, particularly vulnerable consumers.

You will not receive any remuneration for participating in the study and there are no costs to you as a participant. Confidentiality will be maintained throughout the study. The questionnaires will be totally anonymous and confidential. The information provided will be used only for the purpose of this study. The results of this study will be made available to you upon request.

The data collected in this study will be stored securely by the researcher for a period of 5 years and will be used only for the purpose of this study.

Persons to contact in the Event of Any Problems or Queries: Please contact the researcher (Miss Lindeka Tentu, 0785420370 or lindeka1997@gmail.com), my supervisor (Prof. K. Reddy, 031-373 5367 or reddyk@dut.ac.za) or the Institutional Research Ethics Administrator on 031 373 2375. Complaints can be reported to the Director: Research and Postgraduate Support Dr L Linganiso on 031 373 2577 or researchdirector@dut.ac.za.



Incwadi yolwazi

Isihloko Esigcwele Socwaningo: Amalungelo wabathengi nezinselelo zabantu ababencishwe amathuba kwezenhlalo nezomnotho kanye nemithelela yoMthetho Wokuvikelwa Komthengi we-68 ka-2008.

Umphenyi Oyinhloko/umcwaningi: Miss Lindeka Tentu (B. Tech Management: Business law).

Umphenyi olekelela oyinhloko: Prof K. Reddy, Department of Applied Law (Supervisor)

Isethulo esifushane kanye nenjongo yesifundo: Nginyanibingelela. Ngiyethemba ugcina kahle kulezi zikhathi ezinzima.

Zethule kumhlanganyeli: Ngingumfundi owenza iziqu e-DUT ngenza ucwaningo lweziqu ze-master yami kwi-Management Sciences (onguchwepheshe we-Business law).

Isimemo esiya kongaba umhlanganyeli: Ngingathanda ukukumema ukuthi ubambe iqhaza kulolu cwaningo lokuhlola izinselelo ezibhekene nabathengi ababencishwe amathuba kwezomnotho kanye nemithelela yomthetho wabathengi.

Yini Ucwaningo: Ucwaningo ukusesha okuhlelekile noma ukubuza ngolwazi olusha olwenziwe jikelele. Njengengxenywe yezidingo zeMasters's degree in Management Sciences (specialising in Business law), umcwaningi uphenya ngamalungelo nezinselelo zezinkontileka zabathengi abahluphekayo kwezenhlalo nezomnotho, kanye nokuvikelwa abakutholayo ngokomthetho. Lolu cwaningo luhlose, okokuqala ukuphenya izinselelo zenkontileka ngokugxila kubathengi ababencishwe amathuba emnothweni, okwesibili, luzobheka amalungelo nokuvikelwa okutholakala ngokoMthetho Wokuvikelwa Kwabathengi 68 ka-2008, kanti okwesithathu, izinga lokuqwashiswa kwalawo malungelo abathengi endaweni yase-Illovo Bhukulwandle e-Illovo, eKZN.

Uhlaka Lwezinqubo: Ukhethwe ukuthi ubambe iqhaza ngokuzithandela kulolu cwaningo. Imininingwane ozoyinikeza izosiza ekuvezeni izinselelo zenkontileka

obhekana nazo njengomthengi kanye nokuqondwa kwamalungelo abathengi akhona azosiza ekutholeni ukuthi ngabe kukhona yini ukuvikeleka okwanele kwabathengi abahlukumezeka emphakathini nakwezomnotho.

Izingozi noma Ukungaphatheki kahle Kobambe iqhaza: Azikho izingozi noma ukungaphatheki kahle okungatholwa yilowo obambe iqhaza kulolu cwaningo. Umbambiqhaza angahoxa nganoma yisiphi isikhathi ocwaningweni uma ezizwa engakhululekile ekubambeni iqhaza.

Chazela umhlanganyeli izizathu zokuthi angahoxa Ocwaningweni:

Abahlanganyeli bangahoxa uma becela noma ngokungathobeli umthetho. Ukubamba iqhaza kulolu cwaningo kungokuzithandela ngokuphelele futhi ngeke kube nemiphumela uma umhlanganyeli ehoxa kunoma yisiphi isigaba.

Izinzuzo: Imininingwane eqoqwe kulolu cwaningo izosiza ekuvezeni izinselelo zenkontileka abathengi ababhekana nazo, ikakhulukazi abathengi abahlelelekile.

Ukugcinwa kuyimfihlo: imininingwane eyimfihlo izogcinwa kuso sonke isifundo. Amaphepha emibuzo azobe engaziwa ngokuphelele futhi abe yimfihlo. Imininingwane enikeziwe izosetshenziselwa inhloso yalolu cwaningo kuphela.

Imiphumela yo chwaningo: Imiphumela yalolu cwaningo izotholakala kuwe ngesicelo sakho.

Ukulimala Okuhlobene Nocwaningo: Akusebenzi kulolu cwaningo

Ukugcinwa kwawo wonke amakhophi e-electronic kanye nama-hard copies okuhlanganisa namakhasethi aqoshiwe: Imininingwane eqoqiwe izogcinwa iphephile ngumcwaningi bese isetshenziselwa inhloso yalolu cwaningo kuphela.

Abantu ongathintana nabo uma Unezinkinga Noma Imibuzo: Sicela uxhumane nomcwaningi (Miss Lindeka Tentu, 0785420370 or lindeka1997@gmail.com), umbonisi (Prof. K. Reddy, 031-373 5367 or reddyk@dut.ac.za).



Consent

Full Title of the Study: Consumer rights and challenges of the socio-economically disadvantaged and the implications of the Consumer Protection Act 68 of 2008

Names of Researcher/s: Miss Lindeka Tentu

Statement of Agreement to Participate in the Research Study

- I hereby confirm that I have been informed by the researcher, (Lindeka Tentu), about the nature, conduct, benefits and risks of this study - Research Ethics Clearance Number: _____
- I have also received, read and understood the above written information (Participant Letter of Information) regarding the study.
- I am aware that the results of the study, including personal details regarding my sex, age, date of birth, initials and diagnosis will be anonymously processed into a study report.
- In view of the requirements of research, I agree that the data collected during this study can be processed in a computerised system by the researcher.
- I may, at any stage, without prejudice, withdraw my consent and participation in the study.
- I have had sufficient opportunity to ask questions and (of my own free will) declare myself prepared to participate in the study.
- I understand that significant new findings developed during the course of this research which
- may relate to my participation will be made available to me.

Full Name of Participant

**Date
Right**

Time

Signature /

Thumbprint

Full Name of Researcher

Date

Signature



Imvume

Isihloko Esigcwele Socwaningo: Amalungelo wabathengi nezinselelo zabantu ababencishwe amathuba kwezenhlalo nezomnotho kanye nemithelela yoMthetho Wokuvikelwa Komthengi we-68 ka-2008.

Umphenyi Oyinhloko/umcwaningi: Miss Lindeka Tentu

Isitatimende Sesivumelwano Sokuba Iqhaza Ocwaningweni Locwaningo:

- Ngiyaqinisekisa ukuthi ngazisiwe ngumcwaningi, (uLindeka Tentu), ngohlobo, ukuziphatha, izinzuzo nezingozi zalolu cwaningo - Research Ethics Clearance_Number: __,
- Sengithole, ngafunda futhi ngaluqonda ulwazi olubhaliwe olungenhla (Incwadi Yomhlanganyeli Yemininingwane) mayelana nesifundo.
- Ngiyazi ukuthi imiphumela yocwaningo, kubandakanya imininingwane yomuntu mayelana nobulili bami, iminyaka, usuku lokuzalwa, ama-initials kanye nokuxilongwa kuzocutshungulwa kungaziwa kube wumbiko wocwaningo.
- Ngenxa yezidingo zocwaningo, ngiyavuma ukuthi idatha eqoqwe phakathi nalolu cwaningo ingacutshungulwa ngohlelo lwekhompyutha ngumcwaningi.
- Ngingahle, noma ngasiphi isigaba, ngaphandle kokubandlulula, ngihoxise imvume yami futhi ngibambe iqhaza ocwaningweni.
- Ngibe nethuba elanele lokubuza imibuzo futhi (ngentando yami) ngizibonakalise ngikulungele ukubamba iqhaza ocwaningweni.
- Ngiyakuqonda ukuthi okutholakele okusha okuphawulekayo okwenziwe phakathi nalolu cwaningo okungenzeka kuhambisane nokubamba kwami iqhaza kuzonikezwa kimi.

Consumer Questionnaire

Please indicate the option selected with a cross (X) where

appropriateSection A: Demographic data and general information

1. Indicate your Age

18 – 29	
30 – 39	
40 – 49	
50 and over	

2. Indicate your highest level of education

No formal education	
Primary school	
High school, but did not complete matric	
Matric	
College/university	

3. Indicate your work status

Permanent employment	
Temporary employment	
Unemployed (looking for a job)	
Never worked before	

4. Rate your ability to read and understand in each of the following languages:

	Poor	Fair	Good	Very good	Excellent
English					
IsiZulu					
IsiXhosa					
Afrikaans					

5. indicate the main source of income in your home

Salary/Wage	
Government Grant	
Other	

6. Average income range per month in your home

Under R 3000	
R 3 000 to R 5 000	
R 5 001 to R 7 000	
R 7 001 to R 10 000	
Over R 10 000	

Section B: Contractual challenges of vulnerable consumers

7. In terms of Section 3 of the Consumer Protection Act 68 of 2008, a vulnerable consumer includes consumers who earn a low income, live in a remote area, are illiterate, or who are elderly.

Please indicate your level of agreement with each of the following statements relating to challenges that you experience when concluding consumer contracts

I experienced the following challenges when concluding contracts:	Strongly disagree	Disagree	Neutral	Agree	Strongly agree
7.1 Suppliers are unwilling to change their pre-drafted contracts to assist my need as a consumer, e.g., re-adjusting payment timeframes.					
7.2 The pre-drafted terms in a standard form contract present challenges for me as a consumer.					

7.3 The stores that are near me sell inferior quality goods compared to the stores in upmarket areas.					
I experienced the following challenges when concluding contracts:	Strongly disagree	Disagree	Neutral	Agree	Strongly agree
7.4 Sometimes I am required to buy more than one product or obtain an additional service from the supplier, where I do not actually want to buy the second product or obtain the service.					
7.5 Suppliers make false, misleading or deceptive statements relating to the contract.					
7.6 When I received the goods bought, they were unfit for use, or they had defects, or were not in a good working order.					

8. Please indicate your level of agreement with each of the following statements relating to contractual challenges of vulnerable consumers

Contractual challenge	Strongly disagree	Disagree	Neutral	Agree	Strongly agree
Language and understanding challenges:					
8.1 Contracts are not written in plain and understandable language					
8.2 Contracts are written in a language that is difficult for me to understand					
8.3 Salespeople do not take time to clearly explain the contract terms in full detail before rushing me to sign.					
Breach of contract challenges:					
8.4 In case of breach of contract by the supplier, I do not have information as to how and where to seek justice.					
8.5 In the event of a breach by the supplier, I do not have the financial					

resources/money to take legal action.					
8.6 It takes long to cancel a contract with a supplier as it requires the consumer to follow a lengthy process, therefore consumers settle for the poor performance.					
8.7 Contracts contain terms that mostly favors the supplier, with little protection for the consumer.					
8.8 Terms in standard form contracts which are pre-drafted, present challenges for the consumer as they were not negotiated by both parties.					

9. Describe any other contractual challenges that you may have experienced when concluding a contract with a supplier

Section C: Awareness of consumer rights in terms of the Consumer Protection Act 68 of 2008

10. Please indicate your level of awareness of each of the consumer rights indicated below:

Consumer rights under the CPA	Not aware at all	Slightly aware	Somewhat aware	Moderately aware	Extremely aware
10.1 You have the right to disclosure: you must be made aware of all the information about the contract so that you can make informed decisions (Section 22)					
10.2 You have the right to choose what goods you want to buy and which supplier you prefer to buy it from. The supplier is prohibited to bundle goods (Section 18).					
10.3 Bundling of goods is prohibited, i.e. Where more than one products are grouped together					

and sold as a single unit for one price (Section 13)					
10.4 You have a right to cancel a fixed term contract (e.g. for one year) upon expiry date without any penalties (Section 14).					
10.5 You have the right to take complains to the consumer tribunal/court to enforce your rights or resolve a dispute (Section 69).					
10.6 You have the right to privacy as a consumer and you can decline any unwanted communication from the supplier or any communication that is outside business hours (Section 11).					
10.7 You have a right to goods that are of good quality, in good working order and free of any defects (Section 55).					
10.8 When entering into a contract, a supplier is prohibited from using certain means to influence a consumer, such as physical force, undue influence or any unfair tactic (Section 40).					

11_Indicate your level of awareness of each of the following protection provisions that the CPA affords in respect of the contractual challenges of vulnerable consumers.

In terms of the CPA, consumers have the following rights:	Not aware at all	Slightly aware	Somewhat aware	Moderately aware	Extremely aware
11.1. The right for consumer contracts to be drafted in plain and simple language that any ordinary consumer can understand.					
11.2. The right to equality in the market and not be discriminated against in any manner by suppliers					

11.3. The right to cancel any fixed-term contracts without any unnecessary/complicated processes.					
11.4. The right to return defective goods.					
11.5 The right to fair and honest dealings, i.e. suppliers are not allowed to make false statements about the product.					
11.6 The right to seek compensation and justice in case of breach of contract					
11.7 The right to take any complaint regarding supplier to the commissioner or consumer court.					

12. Please indicate your level of agreement with each of the following statements relating to whether the Consumer Protection Act adequately protects consumers from disadvantaged communities. **Disadvantaged consumers can be explained as those consumers who are at risk in the buying and selling market due to having low reading ability levels, earning low incomes, or living in isolated areas or are unemployed.**

	Strongly disagree	Disagree	Neutral	Agree	Strongly agree
12.1 The CPA does not adequately protect me as a consumers.					
12.2 I am not aware of my rights as a consumer.					
12.3 Although I am aware of my rights as a consumer, it is difficult for me to enforce such rights.					
12.4 I cannot afford to use the procedures set out in the CPA to enforce my consumer rights.					

13. Please indicate your level of agreement with each of the following statements relating to possible measures to address the contractual challenges faced by consumers from disadvantaged communities.

Possible actions to deal with contractual challenges	Strongly disagree	Disagree	Neutral	Agree	Strongly agree
13.1 Government should develop and encourage educational and information programmes about consumer rights and protection.					
13.2 Consumer education should be taught in schools.					
13.3 Consumers should be educated about the different Acts involving consumer protection and how to find remedies.					
13.4 Special consumer education programmes should be set up for disadvantaged/vulnerable consumers.					
13.5 Consumer protection remedies need to be more accessible and cheap.					

14. Describe any other possible measures to address the challenges that you or members of the community have experienced when dealing with contracts:

Uhlu lwemibuzo yabathengi

Sicela ukhombise inketho ekhethiwe ngesiphambano (X) lapho kufanele khona

Isigaba A: Idatha yabantu kanye nemininingwane ejwayelekile

1. Khombisa Iminyaka yakho

18 – 29	
30 – 39	
40 – 49	
50 kuyaphezulu	

2. Izinga eliphezulu lemfundo

Ayikho imfundo e-semthethweni	
Imfundo yesikole sebanga eliphansi	
Imfundo yesikole samabanga aphezulu, kodwa angizange ngiwuqede u-matric	
ibanga le-12	
Ikolishi/inyuvesi	

3. Bonisa isimo sakho somsebenzi

Ukuqashwa Kwaphakade	
Umsebenzi wetoho	
Ongasebenzi (ufuna umsebenzi)	
Angikaze ngisebenze ngaphambili	

4. Linganisela ikhono lakho lokufunda nokuqonda ngolimi ngalunye kwezilandelayo:

	Kubi kakhulu	kuhle	Kuhle kakhulu	Umpetha
isiNgisi				
IsiZulu				
IsiXhosa				
IsiBhunu				

5. khombisa umthombo omkhulu wemali engenayo ekhaya lakho

Iholo/Iholo	
Isibonelelo Sikahulumeni	
Okunye	

6. Isilinganiselo senani lemali engenayo ngenyanga ekhaya:

Ngaphansi kuka-R 3000	
R 3 000 to R 5 000	
R 5 001 to R 7 000	
R 7 001 to R 10 000	
Ngaphezulu kuka- R 10 000	

Isigaba B: Izinselelo zenkontileka zabathengi abasengozini

7. NgokweSigaba 3 soMthetho Wokuvikelwa Kwabathengi 68 ka-2008, umthengi osengozini uchazwa njengomthengi ohola imali encane, ongafundile, futhi osemusha noma osekhulile.

Sicela ukhombise izinga lakho lesivumelwano ngesitatimende ngasinye kwezilandelayo esihlobene nezinselelo zenkontileka zabathengi abasengozini

Inselele zenkontileka engike ngabhekana nazo	Angivumi neze	Angivumi	Ukungathathi hlangothi	Vuma	Ngivuma kakhulu
7.1 Abahlinzeki-mpahla abazimisele ukushintsha izinkontileka zabo ezakhiwe kusengaphambili ukuze basize isidingo sami njengomthengi, isb., ukulungisa kabusha izikhathi zokukhokha					
7.2 Imigomo eyakhiwe ngaphambilini					

kwizikontileka ivamile ukunginikeza i-nselele njengomthengi.					
7.3 Izitolo eziseduze kwami zidayisa izimpahla ezisezingeni eliphansi uma ziqhathaniswa nezitolo ezisezindaweni eziphezulu.					
7.4 Kwesinye isikhathi kudingeka ukuthi ngithenge umkhqizo ongaphezu kowodwa noma ngithole isevisi eyengeziwe kumnikezeli, lapho empeleni ngingafuni ukuthenga umkhqizo wesibili noma ukuthola isevisi.					
7.5 Abahlinzeki bempahla benza izitatimende ezingamanga, ezidukisayo noma ezikhohlisayo eziphathelene nenkontileka.					
7.6 Lapho ngithola izimpahla ezithengiwe, zazingakulungele ukusetshenziswa, noma zinamaphutha, noma zazingasebenzi kahle.					

8. Sicela ukhombise izinga lakho lesivumelwano ngesitatimende ngasinye kwezilandelayo esihlobene nezinsalelo zenkontileka zabathengi abasengozini

Inselele zenkontileka: ezimayelana no limu kanye nokuqonda kwam okubhaliwe.	Angivumi neze	Angivumi	Ukungathathi hlangothi	Vuma	Ngivuma kakhulu
8.1 Izinkontileka azibhalwanga ngolimi olulula noluqondakalayo					
8.2 Izinkontileka zibhalwa ngolimi okunzima kumthengi ukuluqonda					
8.3 Abathengisi abaziniki isikhathi sokuchaza ngokucacile imigomo yenkontileka ngemininingwane egcwele ngaphambi kokujaha umthengi ukuthi ayisayine.					
Izinselelo ezimayelana nokwep hulwa kwezinkontileka					
8.4 Esimeni lapho umthengisi ephulwa kwenkontileka, abathengi abanalo ulwazi lokuthi bangabufuna kanjani futhi kuphi ubulungisa.					
8.5 Uma kwenzeka ukwep hulwa kwenkontileka ngumthengisi, abathengi abanazo izinsiza zezimali zokuthatha izinyathelo zomthetho					
8.6 Kuthatha isikhathi eside ukukhansela inkontileka nomthengisi					

njengoba kudinga umthengi ukuba alandele inqubo ende, ngakho-ke abathengi bavumelana nokusebenza kabi.					
8.7 Izinkontileka ziqukethe imigomo evuna kakhulu umdayisi, enokuvikela okuncane kumthengi					
8.8 Imigomo esezinkontileka zamafomu ajwayelekile abhalwe ngaphambilini, aletha izinselele kumthengi njengoba engazange axoxisane ngawo yizinhlangothi zombili.					

9. Chaza noma yiziphi ezinye izinselele zenkontileka okungenzeka ukuthi uhlangabezane nazo lapho wenza inkontileka nomthengisi wezimphahla.

Isigaba C: Ukuqwashisa ngamalungelo abathengi ngokoMthetho Wokuvikelwa Kwabathengi 68 ka-2008

10. Sicela ukhombise izinga lakho lokuqwashiseka ngamalungelo omthengi ngalinye njengoba kukhonjisiwe ngezansi

Ilungelo lomthengi ngaphansi kwe-CPA	Angazi nhlobo	Ngazi kancane	Ngiyazi ngokumaphakathi	Ngiyazi ngokwedlulele
10.1 Unelungelo lokwazi: kufanele waziswe ngalo				

lonke ulwazi mayelana nenkontileka ukuze ukwazi ukuthatha izinqumo unolwazi (Isigaba 22)				
10.2 Unelungelo lokukhetha ukuthi yiziphi izimpahla ofuna ukuzithenga nokuthi yimuphi umphakeli okhetha ukuzithenga kuye. Umthengisi akavunyelwe ukuhlanganisa izimpahla (Isigaba 18).				
10.3 Ukunqwabelana kwezimpahla akuvunyelwe, okungukuthi, lapho imikhiqizo engaphezu kweyodwa iqoqwa ndawonye futhi ithengiswe njengeyunithi eyodwa ngentengo eyodwa (Isigaba 13)				
10.4 Unelungelo lokukhansela inkontileka yesikhathi esinqunyiwe (isb. unyaka owodwa) ngosuku lokuphelelwa yisikhathi ngaphandle kwezinhlawulo (Isigaba 14).				
10.5 Unelungelo lokuyisa izikhalazo kusigcawu/inkantolo yabathengi ukuze iphoqelegele amalungelo akho noma ixazulule ingxabano (Isigaba 69).				
10.6 Unelungelo lobumfihlo njengomthengi futhi ungakwazi ukwenqaba				

noma yikuphi ukuxhumana okungafuneki okuvela kumxhasi nanoma yikuphi ukuxhumana okungaphandle kwamahora webhizinisi (Isigaba 11).				
10.7 Unelungelo lezimpahla ezisezingeni eliphezulu, ezisebenza kahle futhi ezingenazo iziphambeko (Isigaba 55).				
10.8 Uma ungena esivumelwaneni, umdayisi unqatshelwe ukusebenzisa izindlela ezithile zokuthonya umthengi, njengamandla abonakalayo, amandla angafanele noma iliphi isu elingalungile (Isigaba 40).				

11. Bonisa izinga lakho lokuqwasha nge zinhlinzeko zokuvikela ezilandelayo ezinikezwa yi-CPA maqondana nezinselelo zenkontileka zabathengi abasengozini

Ngokwe-CPA, abathengi banamalungelo alandelayo:	Angaz-inhlobo	Ngi-Yazi kancane	Ngiyazi-Ngandlela thize	ngiyazi ngoku maphakathi	Ngi-yazi ngokwedlulele
11.1 izinkontileka zabathengi zibhalwe ngolimi olulula nolulula olungaqondwa yinoma yimuphi umthengi ojwayelekile.					
11.2 Ilungelo lokulingana emakethe futhi ungacwaswa nganoma iyiphi indlela ngabahlinzeki					

11.3 Ilungelo lokukhansela noma yiziphi izinkontileka zesikhathi esinqunyiwe.ngaphandle kwezinqubo ezingadingekile					
11.4 Ilungelo lokubuyisela izimpahla ezingalungile.					
11.5 Ilungelo lokusebenzelana okunobulungiswa nokwethembeka, okungukuthi abahlinzeki abavunyelwe ukwenza izitatimende ezingamanga ngomkhiqizo.					
11.6 Ilungelo lokufuna isinxephezelo kanye nobulungiswa uma kwenzeka kwephulwa inkontileka					
11.7 Ilungelo lokuyisa noma yisiphi isikhalo mayelana nomnikezeli-mpahla kukhomishana noma enkantolo yabathengi.					

12. Sicela ukhombise izinga lakho lesivumelwano ngesitatimende ngasinye kwezilandelayo esihlobene nokuthi uMthetho Wokuvikelwa Kwabathengi ubavikela ngokwanele yini abathengi emiphakathini entulayo.

Abathengi abancishwe amathuba bangachazwa njengalabo bathengi abasengozini emakethe yokuthenga nokudayisa ngenxa yokuba namazinga aphantsi ekhono lokufunda, abahola imali encane, noma abahlala ezindaweni ezingazodwa noma abangasebenzi.

	Angivumi neze	Angivumi	Ukungathathi hlangothi	Vuma	Ngivuma kakhulu
12.1 I-CPA ayingivikeli ngokwanele njengomthengi					
12.2 Angiwazi amalungelo ami njengomthengi.					
12.3 Nakuba ngiwazi amalungelo ami njengomthengi, kunzima kimina ukuphoqeleta amalungelo anjalo.					
12.4 Angikwazi ukusebenzisa izinqubo ezibekwe ku-CPA ukuze ngiphoqelete amalungelo ami omthengi.					

13. Sicela ubonise izinga lakho lesivumelwano ngesitatimende ngasinye kwezilandelayo esihlobene nezinyathelo ezingase zithathwe ukuze kubhekwane nezinselele zenkontileka abathengi abavela emiphakathini entulayo.

Izenzo ezingenzeka zokubhekana nezinselele zenkontileka	Angivumi neze	Angivumi	Ukungathathi hlangothi	Vuma	Ngivuma kakhulu
13.1 Uhulumeni kufanele athuthukise futhi akhuthaze izinhlelo zokufundisa nolwazi mayelana namalungelo nokuvikelwa kwabathengi					
13.2 Imfundo egxile kakhulu ku bathengi					

kufanele ifundiswe ezikoleni.					
13.3 Abathengi kufanele bafundiswe ngeMithetho ehlukeni ebandakanya ukuvikelwa kwabathengi kanye nendlela yokuthola amakhambi					
13.4 Izinhlelo ezikhethekile zokufundisa abathengi kufanele zisethelwe abathengi abancishwe amathuba/abasengozini.					
13.5 izindlela zokuvikela abathengi zidinga ukuthi zifinyeleleke kalula futhi zishibhe.					

14. Chaza noma yiziphi ezinye izindlela ezingenzeka zokubhekana nezinsalela wena noma amalungu omphakathi enihlangabezane nazo lapho nisebenza ngezinkontileka:



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Lindeka Tentu

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http://www.dut.ac.za/research/institutional_research_ethics

www.dut.ac.za

9 March 2022

Ms L Tentu
B 954 Illovo Township
4126

Dear Ms Tentu

Consumer rights and challenges of the socio-economically disadvantaged and the implications of the Consumer Protection Act 68 of 2008.

Ethics Clearance Number: 258/21

The Institutional Research Ethics Committee acknowledges receipt of your final data collection tool for review.

We are pleased to inform you that the data collection tool has been approved. Kindly ensure that participants used for the pilot study are not part of the main study.

In addition, the IREC acknowledges receipt of your gatekeeper permission letter.

Please note that **FULL APPROVAL** is granted to your research proposal. You may proceed with data collection.

Any adverse events [serious or minor] which occur in connection with this study and/or which may alter its ethical consideration must be reported to the IREC according to the IREC Standard Operating Procedures (SOP's).

Please note that any deviations from the approved proposal require the approval of the IREC as outlined in the IREC SOP's.

Yours Sincerely,

Dr K Padayachy
Deputy Chairperson: IREC



Mezzanine Floor Shell House
Cnr. Anton Lembede & Samora Machel Street, Durban, 4001
P O Box 1014, Durban, 4000
Tel: 031 322 7030, Fax: 031 311 3827
www.durban.gov.za

Our Ref: Cllr. M.W. Manqele

Your Ref: 082 225 0221

031 920 1008

Enquires: 24/11/2021

To Whom It May Concern

This letter serves to confirm that TENTU LINDEKA
ID No./D.O.B. 971227 1225 089 Is a known resident member of
B954 ILLOVO TSHIP AMANZIMOTI H126

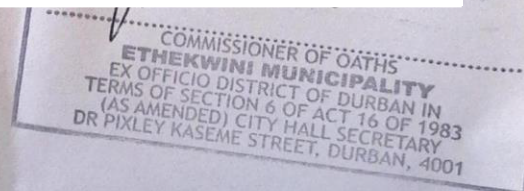
I appeal to you that she/he be given the following assistance:-

- Birth Certificate ☐
- Identity Document ☐
- Child Support Grant ☐
- Foster Care Grant ☐
- Disability Grant ☐
- Old Age Pension ☐
- Maintenance ☐
- Road Accident Fund ☐
- Bank Account update/opening ☐
- Confirmation of Address ☐
- Other X

Your co-operation will be highly appreciated.

Yours faithfully A

Councillor M.W. Manqele
(Ward - 109)
eThekweni Municipality



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Appendix M - Correlations table

		Suppliers are unwilling to change their pre-drafted contracts to assist my need as a consumer, e.g., re-adjusting payment time frame.	The pre-drafted terms in a standard form contract present challenges for me as a consumer.	The stores that are near me sell inferior quality goods compared to the stores in upmarket areas.	Sometimes I am required to buy more than one product or obtain an additional service from the supplier, where I do not actually want to buy the second product or obtain the service.	Suppliers make false, misleading or deceptive statements relating to the contract.	When I received the goods bought, they were unfit for use, or they had defects, or were not in a good working order.	Contracts are not written in plain and understandable language.	Contracts are written in a language that is difficult for me to understand.	Salespeople do not take time to clearly explain the contract terms in full detail before rushing me to sign.	In case of breach of contract by the supplier, I do not have information as to how and where to seek justice.	In the event of a breach by the supplier, I do not have the financial resources/money to take legal action.	It takes long to cancel a contract with a supplier as it requires the consumer to follow a lengthy process, therefore consumers settle for the poor performance.	Contracts contain terms that mostly favours the supplier, with little protection for the consumer.	Terms in standard form contracts which are pre-drafted, present challenges for the consumer as they were not negotiated by both parties.	You have the right to disclosure you must be made aware of all the information about the contract so that you can make informed decisions (Section 22)	You have the right to choose what goods you want to buy and which supplier you prefer to buy it from. The supplier is prohibited to bundle goods (Section 9).	Bundling of goods is prohibited, i.e. Where more than one products are grouped together and sold as a single unit for one price (Section 5)
Spearman's rho	The pre-drafted terms in a standard form contract present challenges for me as a consumer.	Correlation Co Sig. (2-tailed) N	.809** 0.000 283															
	The stores that are near me sell inferior quality goods compared to the stores in upmarket areas.	Correlation Co Sig. (2-tailed) N	.553** 0.000 283	.546** 0.000														
	Sometimes I am required to buy more than one product or obtain an additional service from the supplier, where I do not actually want	Correlation Co Sig. (2-tailed) N	.370** 0.000 283	.381** 0.000	.491** 0.000													
	Suppliers make false, misleading or deceptive statements relating to the contract.	Correlation Co Sig. (2-tailed) N	.545** 0.000 283	.511** 0.000	.586** 0.000	.699** 0.000												
	When I received the goods bought, they were unfit for use, or they had defects, or were not in a good working order.	Correlation Co Sig. (2-tailed) N	.546** 0.000 283	.593** 0.000	.538** 0.000	.556** 0.000	.656** 0.000											
	Contracts are not written in plain and understandable language	Correlation Co Sig. (2-tailed) N	.259** 0.000 283	.299** 0.000	.319** 0.000	.433** 0.000	.408** 0.000	.431** 0.000										
	Contracts are written in a language that is difficult for me to understand	Correlation Co Sig. (2-tailed) N	.433** 0.000 283	.439** 0.000	.366** 0.000	.391** 0.000	.483** 0.000	.547** 0.000	.824** 0.000									
	Salespeople do not take time to clearly explain the contract terms in full detail before rushing me to sign.	Correlation Co Sig. (2-tailed) N	.494** 0.000 283	.438** 0.000	.482** 0.000	.420** 0.000	.503** 0.000	.536** 0.000	.796** 0.000									
	In case of breach of contract by the supplier, I do not have information as to how and where to seek justice.	Correlation Co Sig. (2-tailed) N	.349** 0.000 283	.323** 0.000	.218** 0.000	.266** 0.000	.282** 0.000	.342** 0.000	.582** 0.000	.640** 0.000	.606** 0.000							
	In the event of a breach by the supplier, I do not have the financial resources/money to take legal action.	Correlation Co Sig. (2-tailed) N	.276** 0.000 283	.351** 0.000	.209** 0.000	.312** 0.000	.307** 0.000	.341** 0.000	.636** 0.000	.649** 0.000	.656** 0.000	.570** 0.000						
	It takes long to cancel a contract with a supplier as it requires the consumer to follow a lengthy process, therefore consumers settle	Correlation Co Sig. (2-tailed) N	.469** 0.000 283	.466** 0.000	.411** 0.000	.407** 0.000	.448** 0.000	.424** 0.000	.479** 0.000	.498** 0.000	.629** 0.000	.510** 0.000	.447** 0.000					
	Contracts contain terms that mostly favours the supplier, with little protection for the consumer.	Correlation Co Sig. (2-tailed) N	.445** 0.000 283	.401** 0.000	.493** 0.000	.440** 0.000	.490** 0.000	.426** 0.000	.440** 0.000	.449** 0.000	.636** 0.000	.443** 0.000	.348** 0.000	.821** 0.000				
	Terms in standard form contracts which are pre-drafted, present challenges for the consumer as they were not negotiated by both	Correlation Co Sig. (2-tailed) N	.469** 0.000 283	.374** 0.000	.403** 0.000	.298** 0.000	.391** 0.000	.343** 0.000	.358** 0.000	.450** 0.000	.513** 0.000	.497** 0.000	.241** 0.000	.777** 0.000	.828** 0.000			
	You have the right to disclosure you must be made aware of all the information about the contract so that you can	Correlation Co Sig. (2-tailed) N	-0.016 0.794 283	-0.067 0.263 283	-.126* 0.031 283	-.185** 0.002 283	-.214** 0.000 283	-.180** 0.002 283	-.401** 0.000 283	-.381** 0.000 283	-.233** 0.000 283	-.220** 0.000 283	-.289** 0.000 283	-0.046 0.445 283	-0.019 0.745 283	0.008 0.892		
	You have the right to choose what goods you want to buy and which supplier you prefer to buy it from. The supplier is	Correlation Co Sig. (2-tailed) N	-0.108 0.070 283	-.180** 0.002 283	-.178** 0.003 283	-.221** 0.000 283	-.282** 0.000 283	-.325** 0.000 283	-.448** 0.000 283	-.457** 0.000 283	-.269** 0.000 283	-.222** 0.000 283	-.357** 0.000 283	-0.096 0.107 283	-0.059 0.321 283	-0.042 0.479 283	.812** 0.000	
	Bundling of goods is prohibited, i.e. Where more than one products are grouped together and sold as a single unit for one price	Correlation Co Sig. (2-tailed) N	-0.023 0.699 283	-0.097 0.103 283	-.120* 0.045 283	-0.079 0.184 283	-.141** 0.018 283	-.123** 0.038 283	-.416** 0.000 283	-.390** 0.000 283	-.295** 0.000 283	-.243** 0.000 283	-.352** 0.000 283	-0.101 0.089 283	-0.096 0.108 283	-0.058 0.327 283	.815** 0.000	.795** 0.000
	You have a right to cancel a fixed term contract (e.g. for one year) upon expiry date without any penalties (Section 15).	Correlation Co Sig. (2-tailed) N	-0.028 0.643 283	-0.079 0.183 283	-0.093 0.120 283	-.248** 0.000 283	-.146** 0.014 283	-.188** 0.001 283	-.416** 0.000 283	-.382** 0.000 283	-.272** 0.000 283	-.292** 0.000 283	-.331** 0.000 283	-.198** 0.001 283	-.176** 0.003 283	-.177** 0.003 283	.611** 0.000 283	.673** 0.000 283
	You have the right to take complaints to the consumer tribunal/court to enforce your rights or resolve a dispute (Section 69).	Correlation Co Sig. (2-tailed) N	-0.084 0.160 283	-0.096 0.106 283	-0.100 0.092 283	-.199** 0.001 283	-.145** 0.015 283	-.214** 0.000 283	-.451** 0.000 283	-.396** 0.000 283	-.297** 0.000 283	-.271** 0.000 283	-.368** 0.000 283	-0.112 0.061 283	-0.063 0.294 283	-0.091 0.126 283	.677** 0.000 283	.723** 0.000 283
	You have the right to privacy as a consumer and you can decline any unwanted communication from the supplier or any	Correlation Co Sig. (2-tailed) N	-.120* 0.044 283	-.228** 0.000 283	-.142** 0.017 283	-.180** 0.002 283	-.228** 0.000 283	-.297** 0.000 283	-.420** 0.000 283	-.422** 0.000 283	-.256** 0.002 283	-.181** 0.000 283	-.306** 0.000 283	-0.099 0.743 283	-0.020 0.889 283	-0.008 0.000 283	.733** 0.000 283	.847** 0.000 283