

What are the CPA's best practice guidelines applicable to the motor industry?

 By [Justine Krige](#)

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During 2014 the Minister of Trade and Industry published the Motor Industry Code of Conduct, which serves as a framework for dispute resolution between consumers and participants in the motor industry. On 11 July 2016, the Commissioner of the National Consumer Commission published draft best practice guidelines for comment, pursuant to s93(2) of the Consumer Protection Act, No 68 of 2008 (CPA). This set of best practices is intended to provide procedural clarity in regard to alternative dispute resolution mechanisms for handling complaints involving the automotive industry.



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South African Industry Codes

In terms of s82(2) of the CPA, the Minister may prescribe an industry code regulating the interaction between or among persons conducting business within an industry, or between an industry and consumers. To date, only two industries have issued codes of conduct in terms of this provision. The first is the automotive industry (South African Automotive Industry Code of Conduct) and second is the goods and services industry (Goods and Services Industry Code of Conduct).

The automotive industry is the leading South African industry, in respect of establishing policies and procedures for the protection and enforcement of consumer rights. The Motor Industry Ombudsman of South Africa (MIOSA) was accredited by the Department of Trade and Industry on 3 October 2014 and provides a welcome forum for the resolution of disputes relating to the automotive industry.

Best Practices applicable to the Motor Industry

The set of best practices sets out, among other things, the following:

- the steps to be followed by a consumer in initiating and pursuing a complaint against a supplier (from the initial complaint at retail level, to escalation to MIOSA or the NCC);
- the steps to be followed by suppliers in regard to pre-authorisation of repairs;

- the steps to be followed by suppliers in regard to the supply of grey and parallel parts to consumers;
- the steps to be followed by suppliers in regard to sub-contracting of work by suppliers;
- the applicability of product warranties; and
- the return of goods by consumers.

The value in the set of draft best practices is that it assists in further complementing the South African Automotive Industry Code of Conduct by providing practical steps to be followed in regard to the alternative dispute resolution mechanisms as set out in the CPA, an otherwise largely legal document. It is drafted in a manner that is accessible to consumers and service providers, and sets out the parties' various rights and obligations in scenarios that arise every day in the industry (for example, the pre-authorisation of repairs to a vehicle).

The draft best practices also address the practical measures to be taken by both consumers (for example, in respect of examining parts before taking delivery) and suppliers (for example, in respect of explaining product warranties) and, in doing so, will go some way to limiting unnecessary litigation.

Conclusion

The best practices guideline is still in draft form and has not been formally adopted. When it is adopted it will be of assistance in resolving disputes in the automotive industry. The general public is invited to submit comments on the draft best practices to the Department of Trade and Industry.

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