

# Consumer Protection Act protects car buyers



By Jeff Osborne

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The Consumer Protection Act (CPA) was introduced four years ago with the aim of empowering and better protecting consumers. Many consumers are quick to threaten action by the CPA if they feel they've been duped, but the law isn't always on their side.



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The CPA does favour the consumer in many instances. It also protects members of clubs, trade unions, associations and even franchisees as consumers. However, not every relationship is governed by the CPA and consumers need to be aware of that.

The CPA will only apply to transactions carried out within the normal course of business. If you are buying your vehicle from a private seller, the transaction is not protected, and you are potentially buying a vehicle *voetstoots*. However, as a buyer you will have full legal recourse under common law if you ask about the condition and the history of the vehicle and the seller fails to provide proper disclosure.

If a consumer has bought a car from Gumtree and is unhappy with the seller, they should also report it. If we receive a report that someone is acting unscrupulously on our site, we take very serious action and may even ban them permanently from selling or contacting sellers on the site.

## Auctions are exempt

Similarly, auctions are exempt from the CPA's implied warranties. That doesn't mean that auctions aren't regulated under the Act, but you are buying goods 'as is' with their faults (disclosed or not) - so make sure that you know the true worth of an item before committing.

When buying a pre-owned vehicle from a dealership, you will have the right to fully examine the vehicle before taking delivery. The dealership should have a full audit trail of documents that you can complete throughout the process - always obtain copies and always fully inspect your vehicle before making a purchase. If you have purchased as the result of a direct marketing initiative (e.g. due to a phone call from a salesperson) you can cancel the deal within five days. If you were not allowed to inspect the vehicle fully before purchase, that period extends to ten days. That is why it's very important that you fully inspect the vehicle before signing any delivery documents.

Consumers should also be aware that the dealership will be exempt from the implied warranties if they were fully informed of all the defects of the vehicle that were present at the time of the transaction, or if the vehicle was offered in a specific condition. The dealership should supply documentation that discloses the condition of the vehicle when they sell - including AA checklists, disclosures from previous owners and other documents. They may also offer warranties over and above the CPA's implied warranty.

## Steps to follow

While blanket legal advice cannot be offered as every dispute should be treated differently, there are a few steps that can be followed. Start by submitting your complaint in writing to the dealership in question, indicating what type of resolution is required. Supply all facts and supporting documents available. Give the dealership some time to resolve the dispute - often there will be a practical solution.

If the solution is not reached, and the dealership is a member of the Retail Motor Industry Organisation (RMI), they may choose to intervene and mediate informally. If the supplier is not a member of the RMI, the consumer can still turn directly to the Motor Industry Ombudsman. The Motor Industry Ombudsman's decisions are binding and have never been overturned.

## ABOUT JEFF OSBORNE

Jeff Osborne heads up the Gumtree Automotive Team from their office in Johannesburg. Jeff has decades of experience in the motor industry and served as the CEO of the Retail Motor Industry for 13 years. Jeff is passionate about the automotive space, and is a keen classic car collector.  
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