



## IN THIS ISSUE:



Queen Munyai: CEO



## MESSAGE from the CEO

This last quarter gave us some welcome space to catch our breath as complaint volumes show signs of returning to pre-COVID levels. It was a good quarter: complaints dropped 40% year on year and we recorded several new sign-ups, including among the Super Group – organisations with an annual turnover of R5 billion or more – which helps to spread the cost burden of operating this office more equitably across the sector. The ability to shop and contract with confidence is the cornerstone of our market-based economy, so a functional Ombud benefits both suppliers and customers.

Our turnaround time is also improving, both year on year and quarter on quarter. While the reduced case numbers are a contributing factor, I am pleased to report that we have managed a quarterly improvement of 28% from 65 to 47 days, and a 4% improvement year on year, from 49 to

47 days. Our intervention to reduce and eventually eliminate costly and time-consuming out of jurisdiction complaints is also paying off. Thanks to the recently launched filtering application on our website, we have recorded a year-on-year improvement of 68%, with the number of out of jurisdiction complaints falling from 1,637 to 527. This frees up time to focus on complaints that fall within our mandate and gives us access to resources that could be better spent on advocacy and training. Additionally, our efforts to actively direct consumers to lodge complaints via WhatsApp or our website have also reduced pressure on our call centre and alleviated the frustration of being put on hold.

These efficiencies are in line with our strategic intent of creating a fit-for-purpose organisation that can carry out its mandate to the satisfaction of all stakeholders.

An important component of the drive for efficiency includes ensuring that we do everything possible to encourage businesses to comply with the Code and sign up as participants. Accordingly, the **late joiner's fee** announced last year came into effect on 1 March 2022. We are in the process of seeking a suitably qualified service provider to assist in identifying and registering all eligible entities within the sector. Details of the RFP can be found on our website. The late joiner's fee is not intended as a punitive measure but rather to ensure that a handful of compliant suppliers do not subsidise the entire sector.

Once again, our sincere thanks to all our new and existing participants for helping to ensure fair play between consumers and suppliers.



**WELCOME**  
to our new  
participants

NEW PARTICIPANTS	GROUP*
FOOD LOVER'S HOLDINGS (PTY) LTD	Super Group
IM KARAN FARMING AS KARAN BEEFLOT KARAN BEEF (PTY) LTD	
PHILLIP MORRIS INTERNATIONAL	1
NWK LIMITED	2
MEDAL PAINTS (PTY) LTD	3
OXFORD FAMILY SUPERMARKETS (PTY) LTD	3
AFRICAN CORK SUPPLIERS (PTY)LTD	4
APOSTOLIDES (PTY) LTD T/A RIVERSMEAD POULTRY FARM	4
CANWAY (PTY) LTD	4
CAPE OLIVE PRODUCTS (PTY)LTD	4
COMIT TECHNOLOGIES (PTY) LTD	4
DE JAGERS HANDELSMAATSKAPPY (PTY) LTD	4
HENTIES JUICES CAPE CC	4
JD MALAN T/A MALANSEUNS	4
JUMBO FOOTWEAR CC	4
ROPA MILLERS (PTY) LTD	4
SA NATURAL PRODUCTS PTY LTD	4
THE GREAT SUPPLY (PTY)LTD	4
MAJORS FOR MINORS SA (PTY) LTD	5
MATUS A DIVISION OF BRANDCORP PTY LTD	5
MUST PAPER INDUSTRIES (PTY) LTD	5
NARAYAN TEXTILES PTY LTD	5
OASIS WATER HOLDINGS PROPRIETARY	5

\* Group category based on annual turnover

NEW PARTICIPANTS	GROUP*
TED'S APPLIANCE DISCOUNTERS CC	5
ACTIVE HARDWARE	6
ANGEL PERFUMES AND COSMETICS (PTY) LTD	6
CHALONER SA CC	6
ESSE SKIN CARE (PTY) LTD	6
HEALTH NUT ONLINE SHOP (PTY) LTD T/A THE HEALTH NUT	6
HEIDI'S DRIED FRUIT & NUTS	6
IN THE ZONE AIRCONDITIONING CC	6
LANPACK MANUFACTURERS	6
M&A TIMBERS	6
MARSHALLS TRADITIONAL HEALTHCARE	6
MEYERS WHOLESALE JEWELLERY (PTY) LTD	6
MIDDELVLLEI WINES TRUST	6
NATURAL & ORGANIC FORMULATIONS (PTY) LTD	6
NIMBLE PRINT SOLUTIONS (PTY)LTD	6
THE GREAT CLEANING COMPANY	6
ZOGO (PTY) LTD	6
HYPERPOOL GROUP (PTY) LTD	7
LITTLE SHOP OF GIFTS	7
LT FOOD LABELING CONSULTANCY	7
PC ASSIST GROUP (PTY) LTD	7
REGCOR ENTERPRISES (PTY) LTD	7
TREETOP TOY CO	7

## NEW PARTICIPANTS

**47 NEW PARTICIPANTS SIGNED UP**, bringing the total number of participants at group level to 1,095 at the end of March 2022. This is an increase on the 34 we signed up in the same period last year, although year on year, the number of participants has dropped 12% from 1,244, primarily due to sluggish economic growth and an industry still recovering from extended lockdown.



Magauta Mphahlele: Ombudsman



## From the OMBUD'S DESK

The National Consumer Commission (NCC) recently published its proposed amendments to the Consumer Goods and Services Code of Conduct. The call for comment was published in Government Gazette Notice 866 of 2022 on 4 March 2022. As many of you will know, we have long been advocating for stricter sanctions to be applied to suppliers who do not cooperate with this office and/ or who refuse to sign up on the basis that they are covered by other public regulations, even when the said public regulation does not provide the same protection and redress provided by the Consumer Protection Act (CPA).

The proposed amendments tackle three important issues in this respect. The first relates to proposed changes to paragraph 4.1, which deals with suppliers who refuse to be bound by the Consumer Goods and Services Code of Conduct on the grounds that they are regulated elsewhere. This has previously been used as a loophole by some suppliers who have claimed that they are not bound by the Code because they have their own regulatory body. The proposed amendments specifically stipulate that the Code applies to all suppliers of goods and services (except the automotive industry) unless they are regulated elsewhere by other public regulation, **and – critically – such public regulation covers all prohibited conducts as stipulated**

in the CPA or a Code prescribed by the Minister in terms of section 82 of the CPA.

This proposed amendment effectively aligns the Code with section 5 of the Consumer Protection Act, which provides that a supplier is only exempt from the CPA and consequently from the Code if the sector has been exempted by the Minister of Trade and Industry on the basis that the **relevant regulatory scheme ensures the achievement of the purposes as well as the provisions of the CPA.**

Subsection 5(3) and (4) provide as follows:[1]

- 1.1. (3) **A regulatory authority may apply to the Minister for an industry-wide exemption** from one or more provisions of this Act on the grounds that those provisions overlap or duplicate a regulatory scheme administered by that regulatory authority in terms of—
  - (a) any other national legislation; or
  - (b) any treaty, international law, convention or protocol.
- (4) The Minister, by notice in the Gazette after receiving the advice of the Commission, may grant an exemption contemplated in subsection (3)— (a) **only to the extent that the relevant regulatory scheme ensures the achievement of the purposes of this Act at least as well as the provisions of this Act; and (b) subject to any limits or conditions necessary to ensure the achievement of the purposes of this Act.**
- (5) If any goods are supplied within the Republic to any person in terms of a transaction that is exempt from the application of this Act, those goods, and the importer or producer, distributor and retailer of those goods, **respectively, are nevertheless subject to sections 60 and 61.**

The second important amendment speaks to what happens if suppliers fail to cooperate with the CGSO. Some suppliers take advantage of the fact that the CGSO does not have enforcement or binding decision-making powers. As a result, they ignore requests to deal with complaints received against them. The bottom line is that the National Consumer Tribunal, on receiving a referral from the NCC, will now consider the supplier's conduct in determining sanctions for any prohibited conduct where a dispute with a consumer went unresolved. This has long been in force in the automotive industry, regulated by the **Motor Industry Ombud of South Africa (MIOSA)**. In **NCC v Western Car Sales**, the Tribunal ordered the supplier to not only refund the consumer the amount of R61,450 but also fined the supplier R100,000 to be paid within 30 business days of the judgement being handed down. This was essentially an own goal by the supplier.

Administrative fines of this nature are based on the behaviour of the respondent and their willingness to engage and participate in the alternative dispute resolution process. In this case, the supplier not only failed to comply with the recommendation made by the MIOSA but did not bother to defend the application before the Tribunal. The takeaway here is that suppliers who fail to take advantage



of the alternate dispute process can expect to be dealt with harshly, should they be investigated and referred to the Tribunal by the NCC.

The third amendment is that the CGSO must submit a list of non-compliant suppliers to the NCC. We are hopeful that this is a sign that non-compliant suppliers are moving further up the list of priorities for the NCC, as threats of sanctions are only effective if they are imposed. We believe that punitive fines against suppliers who flagrantly disregard the process are in the best interests of consumers and the industry.

While these amendments are welcomed, the CGSO still doesn't have the right to issue binding decisions on suppliers. The effect of this is most keenly felt by consumers who have to jump through several hoops in search of redress if they encounter an issue with a supplier that refuses to cooperate with this office. This is because, currently, complainants are obliged to lodge their complaints with the CGSO first. Only once the 60-

day complaint resolution process has been exhausted can the consumer escalate the matter to the NCC in the hope that it will be escalated to the National Consumer Tribunal. For this to happen, though, the complainant must lodge a fresh complaint with the NCC, making it a very protracted process to obtain redress. However, we are mindful that a policy and legislative amendment to the CPA will be necessary to make this possible. We hope that when the time comes for the Department of Trade, Industry and Competition to review the CPA, they will consider this.

The CGSO has submitted its comments and published the Gazette on our website so that our Participants and Stakeholders can submit their comments independently. For those who have missed the deadline, there will be another opportunity when the Minister of Trade, Industry and Competition has received the NCC submission, and the final amendments are published.

The CGSO will continue to monitor the process and keep our Participants and Stakeholders updated.

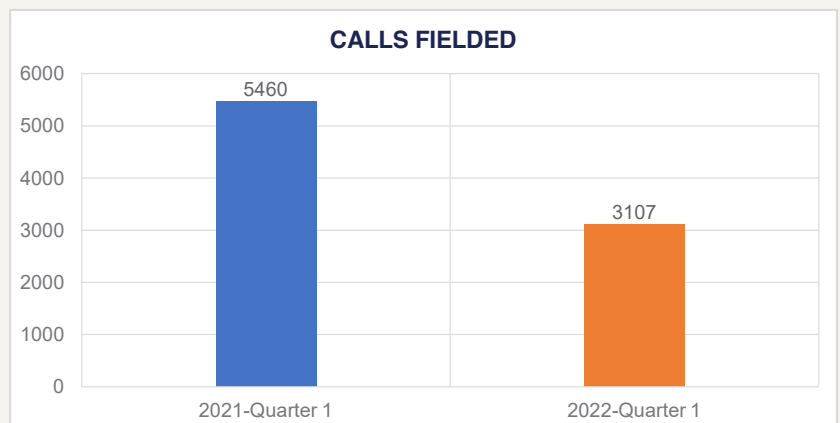
[CLICK HERE](#) 

to read the proposed new amendments to the Consumer Goods and Services Code of Conduct.



### 3,107 CALLS FIELDDED

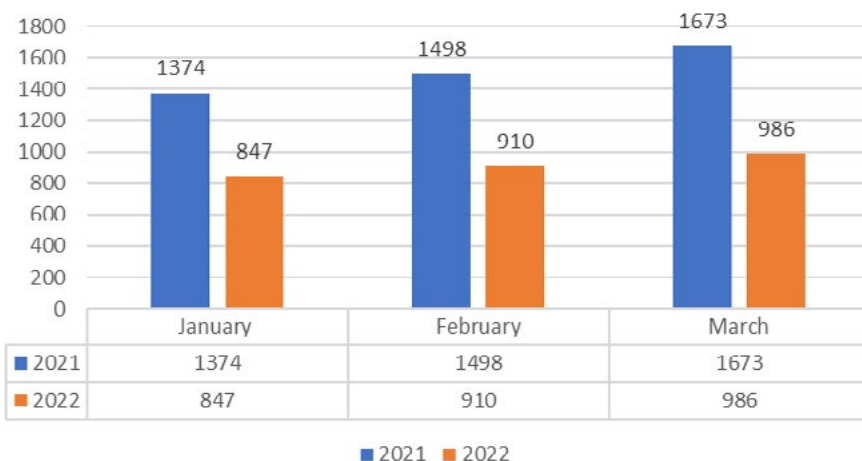
In the first quarter of 2022, our call centre fielded 3,107 calls, compared to 5,460 over the same period last year, reflecting consumer preference for lodging complaints via the CGSO website and using other available communication channels like WhatsApp and social media platforms.



## 2,743 COMPLAINTS RECEIVED

The number of complaints fell 40%, from 4,545 in the first quarter of 2021 to **2,743**. Reflecting the lower volumes, the number of cases closed fell 35%, from 4,024 to **2,636**.

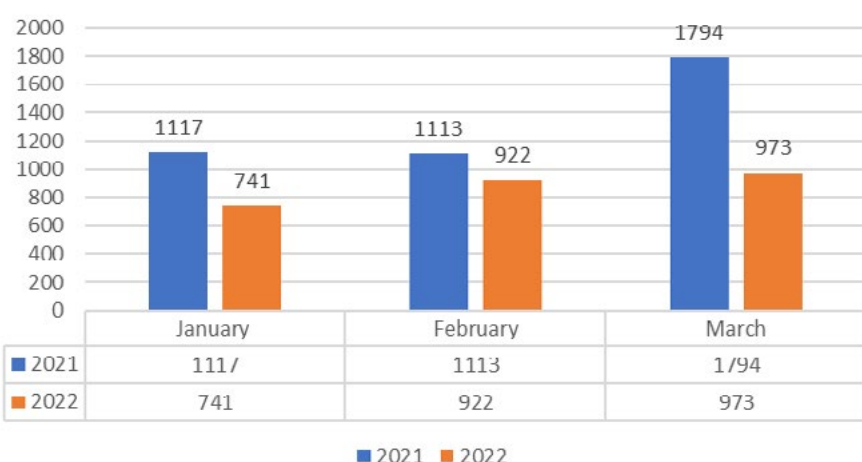
### CASES RECEIVED



## 2,636 CASES CLOSED

47 – the average number of days to close a case. This is a slight improvement on 49 days in the first quarter of 2021 and comfortably within our target of 60 days.

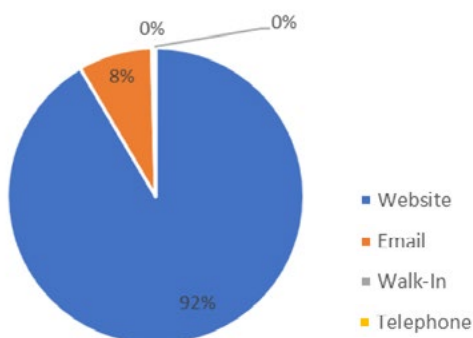
### CLOSED CASES



## 92% OF COMPLAINTS WERE SUBMITTED VIA OUR WEBSITE

This is compared to 88% for the same period last year.

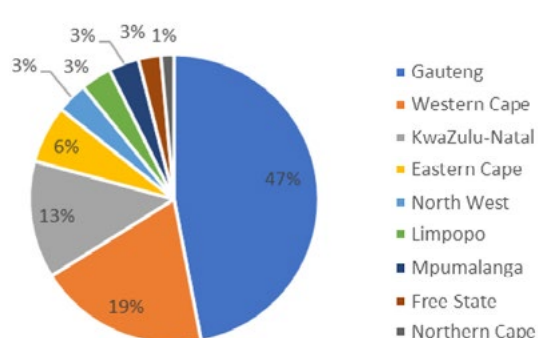
### HOW COMPLAINTS WERE RECEIVED



## COMPLAINTS PER PROVINCE

47% of all complaints this quarter were received from Gauteng, followed by the Western Cape and Kwazulu Natal, which is in line with previous quarters.

### COMPLAINTS PER PROVINCE



## R2.4 MILLION.....

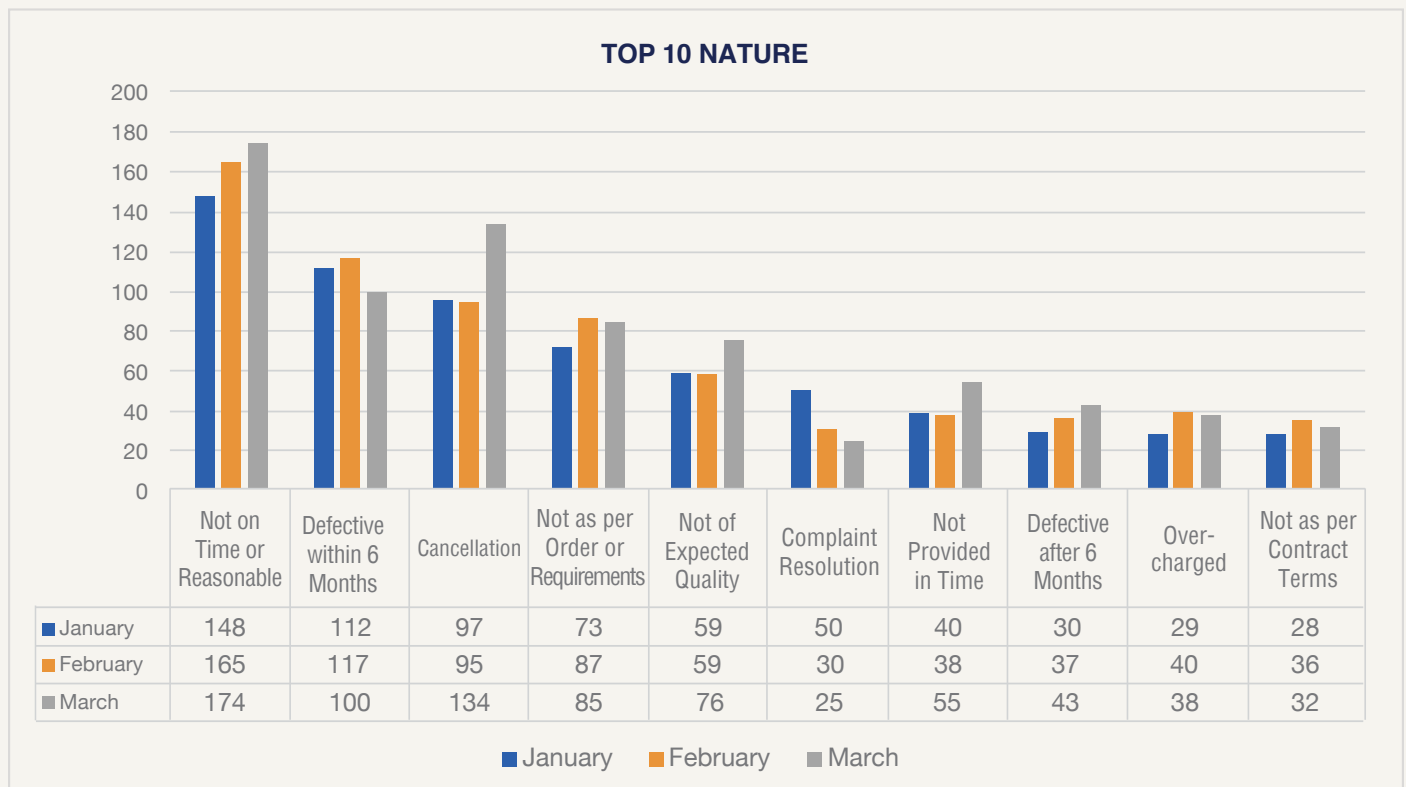
### THE AMOUNT REFUNDED TO CONSUMERS THIS QUARTER

In the first three months of 2022, an amount of **R2,423,877.18** was recovered for complainants, including R68,716.45 refunded to a customer who ordered TVs, Fridges and DSTV decoders from a supplier who failed to deliver the goods. While this is very close to the R2,453,920.03 refunded to consumers in the same period last year, it is spread over fewer complainants.



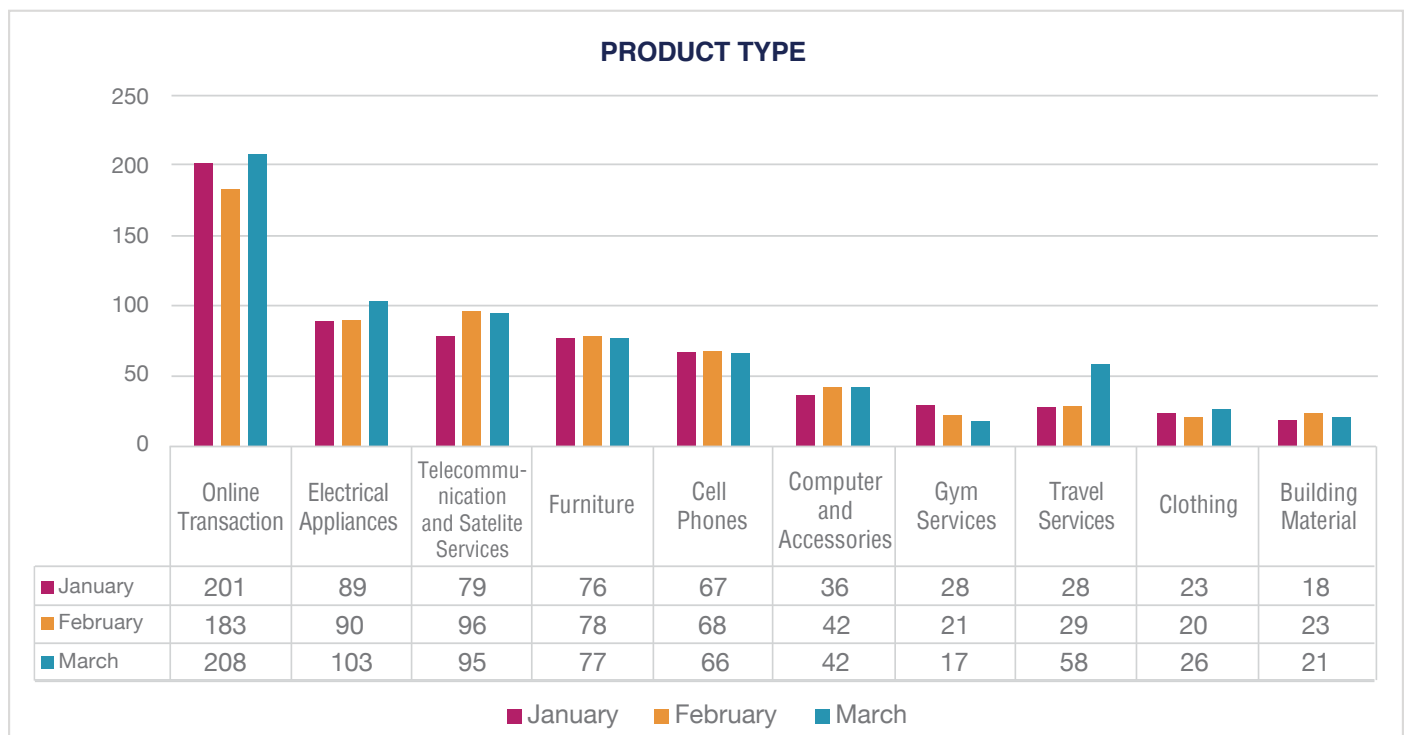
## TOP TEN NATURE OF COMPLAINTS RECEIVED BY CATEGORY

Lockdown may have officially ended, but online shopping is here to stay, and with it, the inevitable failures of delivery and the problems that come from not being able to return a product to the store at which it was bought. We expect delivery failures and defective goods to continue to trend in the coming months.

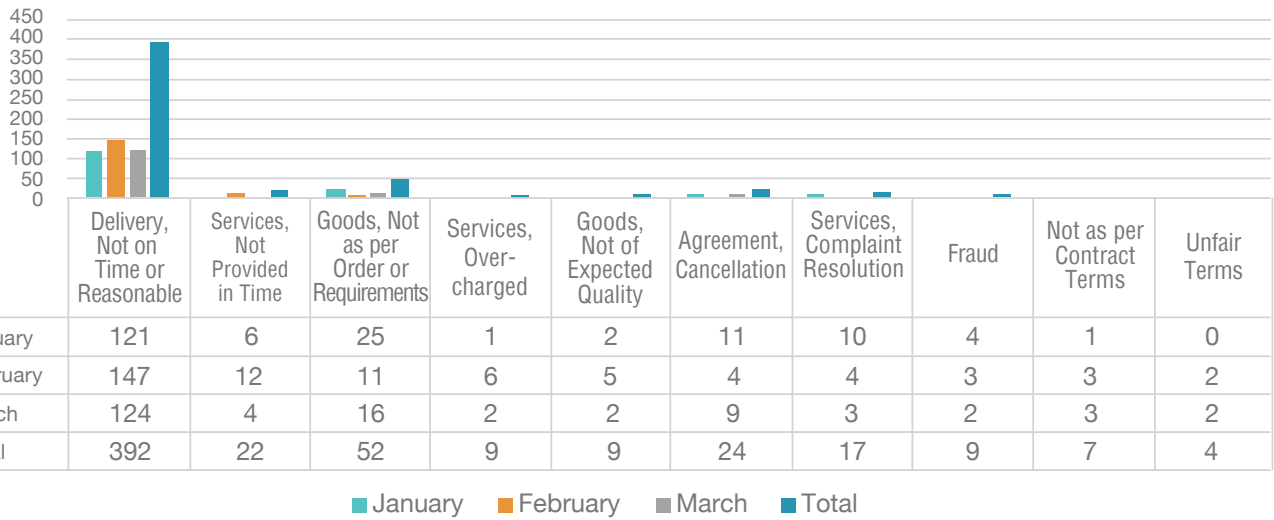


## COMPLAINTS PER PRODUCT BREAKDOWN

Online transactions once again proved to be a significant source of consumer unhappiness, both year on year and quarter on quarter. Much of these transactions involved the purchase of electrical appliances, which proved to be defective within six months of purchase. One reason for this is the logistics of getting unsatisfactory purchases back to the original e-vendor, especially if that vendor is an online pop-up store with no track record. The CGSO has issued several warnings in this regard. Consumers should always inspect the returns policy on the website, read consumer reviews on social media and do a price check. Unrealistically low prices invariably involve a catch.



## ONLINE SHOPPING – TOP 10 COMPLAINTS

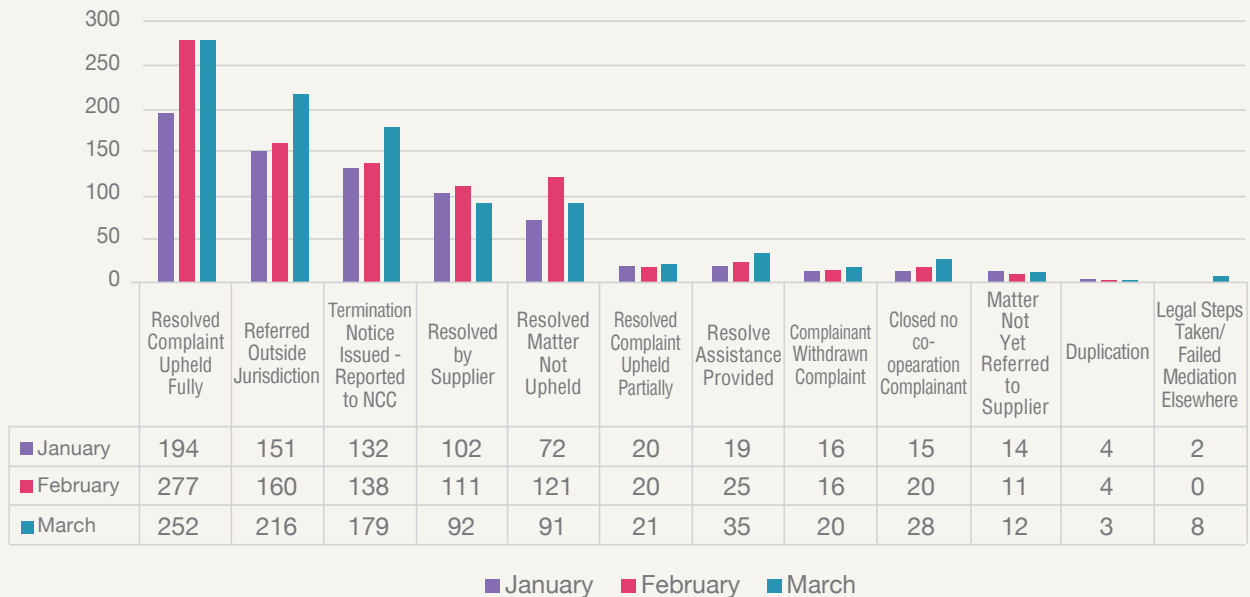


## OUTCOME OF COMPLAINTS

62% of cases within our jurisdiction were upheld fully or partially and were either resolved by the supplier or assistance was provided to the complainant.

449 suppliers were reported to the National Consumer Commission for failure to cooperate with this office.

## HOW RESOLVED





## FROM OUR CASE FILES

### Is there such a thing as a Non-Refundable Deposit?

After three failed attempts to have the wedding of their dreams, only to have their hopes dashed by COVID-19, a couple decided to cancel their wedding entirely. Having booked and put down a deposit on the venue in December 2019, the happy day was initially scheduled for 30 May 2020, then March 2021 and finally, set for 26 November 2021. In January 2021, when uncertainty dogged the vaccine rollout in South Africa, the couple informed the supplier that they would rather cancel than risk another postponement. Believing that 11 months' notice was reasonable and fair, the couple requested a refund of the R30,674 they had paid to the supplier. The supplier refused. That's when the couple turned to the CGSO for help in getting a reasonable refund.

We engaged with the supplier, who shared their calculations, explaining that they would only consider a refund if the couple rebooked the venue.

*We referred the supplier to section 17 of the Consumer Protection Act (CPA), which states that consumers have the right to cancel advance bookings subject to the payment of a reasonable cancellation fee and that the circumstances must be considered, including whether the notice period is sufficient for the service provider, acting diligently, to find a replacement booking.*

Accordingly, we advised the supplier that their cancellation policies were contrary to the CPA and recommended an amount of R22,580.04 as a fair refund.

However, the supplier refused to pay the amount because it included a non-refundable deposit of R5,000.

We then referred the supplier to section 51 of the CPA, "51. Prohibited transactions, agreements, terms or conditions.

**(1) A supplier must not make a transaction or agreement subject to any term or condition if—**

**(a) its general purpose or effect is to—**

- (i) defeat the purposes and policy of this Act;**
- (ii) mislead or deceive the consumer; or**
- (iii) subject the consumer to fraudulent conduct;**

**(b) it directly or indirectly purports to—**

- (i) waive or deprive a consumer of a right in terms of this Act;**
- (ii) avoid a supplier's obligation or duty in terms of this Act;**
- (iii) set aside or override the effect of any provision of this Act; or**

**(iv) authorise the supplier to—**

- (aa) do anything that is unlawful in terms of this Act; or**
- (bb) fail to do anything that is required in terms of this Act;**

**(c) it purports to—**

- (i) limit or exempt a supplier of goods or services from liability for any loss directly or indirectly attributable to the gross negligence of the supplier or any person acting for or controlled by the supplier;**
  - (ii) constitute an assumption of risk or liability by the consumer for a loss contemplated in subparagraph (i);**
- ....."

We explained that in terms of section 51 of the CPA, contracts drawn up by the supplier may not contain terms and conditions that are contrary to the provisions of the CPA as the Act will prevail. In simple terms, you cannot contract out of statute. Even if the client signed the agreement, the Act prohibits the contracting out of or waiver of certain consumer protection under that legislation.

The supplier eventually agreed with our recommendation and paid the recommended amount of R22,580.04 in full.





## CGSO in the news

March was a big month for the CGSO. We teamed up with the Consumer Protection Forum to celebrate consumer rights month by reaching those furthest behind and taking our message to rural and under-served consumers. In the run-up to Consumer Awareness month, we kicked off our first CPA training sessions for the year, enhancing customer service levels among over 40 attendees.



We also held our first webinar for 2022, in which 102 participants joined our Ombudsman and Complaints Manager to discuss the most frequently asked questions around issues that are not so straightforward in the CPA. We received very positive feedback about the **Webinar** and will continue to run them to improve compliance awareness amongst our Participants, consumers and stakeholders.

Once again, thank you to the radio and television producers who hosted us and to the journalists who picked up on our consumer alerts warning against unscrupulous suppliers.

### Interviews:



WhatsApp us on +27 (0) 81 335 3005 for a prompt response.

Join the 645 people who used our WhatsApp platform to engage with us this quarter. You can make enquiries, lodge a complaint or follow up on an existing complaint.

## CPA Awareness Training

Did you know that we continue to offer CPA training via virtual platforms?  
This is free of charge to paid-up participants.

## Useful Contacts

**Magauta Mphahlele** (Ombudsman)

[magautam@cgso.org.za](mailto:magautam@cgso.org.za)

**Queen Munyai** (CEO)

[queenm@cgso.org.za](mailto:queenm@cgso.org.za)

**Rhoda Maphosa** (Participant Subscription, Fees and Billing)

[accountant@cgso.org.za](mailto:accountant@cgso.org.za)

**Nicky Stetka** (Complaints)

[nickys@cgso.org.za](mailto:nickys@cgso.org.za)

**Ouma Ramaru** (Media and Participant Training)

[oumar@cgso.org.za](mailto:oumar@cgso.org.za)

**Katlego Lehabe** (New Participant Sign Up)

[katlego@cgso.org.za](mailto:katlego@cgso.org.za)



SHARECALL: 0860 000 272 (CPA) | FAX: 086 206 1999

WEB: <http://www.cgso.org.za> | EMAIL: [info@cgso.org.za](mailto:info@cgso.org.za)

PHYSICAL ADDRESS: 292 on Surrey | 292 Surrey Avenue | Ferndale | Randburg.

POSTAL ADDRESS: PO Box 3815 | Randburg | 2125

