


Consumer protection law

The DMCC Act and consumer protection: Vulnerable consumers

27 May 2025  Cat Driscoll and Emma Roake

On 6 April 2025 the new consumer protection measures introduced by the Digital Markets, Competition and Consumers Act 2024 (DMCC) came into force.

One such measure introduced was an increased level of responsibility for businesses towards vulnerable consumers. The CMA has said in its guidance that different practices, and even the same practices in different circumstances, may have different effects depending on the type of consumer they reach or affect. The provisions concerning vulnerable consumers are there to ensure that businesses do not unfairly affect vulnerable people, even if their practices may not change non-vulnerable consumers' decisions.

In itself, the concept of the vulnerable consumer is not entirely new, and neither is the special care required of a business dealing with such individuals. The previous legislation dealing with unfair commercial practices identified a number of factors that would require consideration when determining if a consumer may be 'vulnerable' including age, mental or physical health and credulity.

The DMCC has gone a step further though by expanding this to cover a consumer's **individual circumstances**.

What is a vulnerable customer under the DMCC?

While examples of what such circumstances might be are given by the CMA – such as mourning a loss or losing a job – there is no exhaustive list. This creates a high degree of flexibility for the CMA to examine any practice which it feels sails too close to the wind.

If a group of consumers are particularly vulnerable to a selling technique or a particular product and the business could reasonably be expected to foresee they are vulnerable to this selling technique or particular product, then the average consumer will be regarded as an average member of that vulnerable group.

Examples of vulnerable consumers are **young consumers** (for example, children and teens) and those who might be vulnerable due to their **mental or physical health** - which means a very large proportion of the population. People with anxiety or depression will be one example of a vulnerable group, as will those with eating disorders or body dysmorphia.

How might this impact retailers?

It is easy to see how beauty and wellness brands in particular (and some fashion brands) are exposed here – in effect those brands will often be selling based on content and claims which promise a certain effect or outcome or the solution to a particular problem.

These brands will need to be very careful that their product claims and their selling techniques are reviewed to make sure that those claims or techniques are not likely to cause the vulnerable consumer to make a different decision about whether to purchase a product than they would have done if they did not have that vulnerability. This does not just mean making sure your product claims stack up and are compliant with [advertising law](#) – it also means that the ways in which you are selling products and services to consumers do not exploit the vulnerabilities of some of those consumers.

The CMA guidance gives the example that consumers who experience eating disorders might be particularly vulnerable in relation to claims on social media about the weight management benefits of a product.

Vulnerable consumers also include those “*who may more readily believe specific claims*”. The CMA has said that members of a group who are, for any reason, open to be influenced by certain claims will be protected.

The example given by the CMA is that consumers who are particularly concerned about the environment may be more susceptible to misleading environmental claims. In other words, those consumers’ beliefs make them vulnerable to certain claims where other consumers would not be.

Where this leaves retailers is that their selling techniques and product and services claims must be on the right side of the line not just for the ‘average’ consumer who does not have any particular vulnerabilities, but also for the average consumer with a particular vulnerability or combinations of vulnerabilities.

For beauty, wellness and fashion brands, this means a new evaluation of product claims and selling techniques which asks the question:

Could this product or service claim or technique cause someone who is vulnerable (due to their age, physical or mental health, susceptibility to believing certain claims, or individual circumstances) to take a decision relating to our product or service that someone who did not have that or those vulnerabilities would not have taken?

This requires brands and retailers to consider different possible cohorts of consumers e.g. a 14-year old consumer, a consumer with an eating disorder, a consumer who is concerned about their rosacea, a consumer who has been advised to lose weight by their doctor, a consumer who is concerned about the environmental impact of the products they use. Put that way, it is easy to see that this goes to the heart of brands’ marketing and sales strategies.

Actions for retailers

1. Check your marketing and sales strategies

When developing your marketing or sales strategy consider if there is any aspect of that strategy which could be misconstrued by or place additional pressure on certain members of the target audience or individuals within it who may be vulnerable in any way (for example due to age, disability or neurodiversity) and what steps can be taken to prevent it from influencing such consumers.

The CMA says in its guidance that businesses “*that have processes in place to consider whether their practices are more likely to impact negatively on different groups of vulnerable consumers, and that can evidence those processes, will put themselves in a better position*” to comply.

The bottom line, therefore, is that brands need to be able to demonstrate that they have processes and safeguards in place to protect vulnerable consumers. These processes will need to be built into all marketing and sales strategies.

2. Ensure teams understand the DMCC duties

In addition to embedding checks and balances in every stage of your go to market strategy it will be important to ensure that anyone involved in such activities, from those writing product claims or creating social media campaigns to customer services representatives, influencers and brand ambassadors, understand these duties to vulnerable consumers and act accordingly.

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Contact

Cat Driscoll

Partner

Cat.Driscoll@Brownejacobson.com

+44 (0)330 045 2771

Emma Roake

Partner

emma.roake@brownejacobson.com

+44 (0)330 045 2289

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