

The Consumer's Social Vulnerability in the Current Days

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Abstract: The need for social inclusion imposed new habits on consumers. In view of this new scenario, this article aims to verify whether this need for belonging is capable of worsening consumer vulnerability. For this purpose, the deductive research method was used, adopting the bibliographic method as a procedure, with research in books, scientific magazines and specialized websites on the subject, as well as legislation. Finally, it was possible to conclude that vulnerability was worsening, given that, even without financial conditions, most consumers go into debt to obtain products to feel accepted by society, which requires special attention from the State.

Keywords: Consumer protection. Aggravation of consumer vulnerability. Consumer Indebtedness. Consumer behavior.

I. Introduction

The need for social inclusion has imposed new habits on consumers. This new scenario accelerated consumption, aggravating the consumer's vulnerability, even causing their indebtedness.

There is an imbalance between consumer and supplier, given that the consumer, having already decided on the consumption of products to satisfy his need to belong to social groups, acquires products regardless of the prices that are offered, as well as having a real need for acquisition.

The consumer is attracted by aggressive marketing methods, by apparently reduced prices, apparent discounts, free shipping in the online market, among others. The complexity and speed, brought about by the current times, have aggravated the vulnerability of consumers, providing new modes of simulation and illicit, different from the traditional context, with much more dynamics, involving qualified technical knowledge.

In current times, human superiority no longer seems to be in knowledge, but in being, so that modern man replaces his values with the myth of consumption, prioritizing material needs, especially those available in shopping malls. In this context, it can be said that the superiority of modern man even surpasses his existence, being found in his acquisitions.

In the current consumer society, people feel inserted from the moment they acquire the objects that are in fashion. A good part of the products are acquired not because they are necessary, but because everyone has them or because they convey the image that, in order to be well seen, said product is essential.

In the sense of social vulnerability, people start to buy products, even unnecessary ones, to be accepted in a certain group or social class. It follows, therefore, that daily, suppliers take advantage of this condition of social vulnerability of consumers to encourage them to purchase products, under penalty of being excluded from their circle of friends or even from society.

That's because the boost to mobility in the social pyramid is one of the explanations for ostentatious consumption, which deserves special attention from the authorities, to minimize the effects of this new type of vulnerability.

II. Method

The deductive research method was used, adopting the bibliographic method as a procedure, with research in books, scientific magazines and specialized websites on the subject, as well as legislation.

III. Literature Review

3.1 Fundamentals of consumer vulnerability

Consumer Law has a functional and multidisciplinary character, whose main function is to balance the relationships that develop between professionals and consumers in the context of the market economy [1]. This balance is proposed by the legislator through the observance of some principles, among which vulnerability stands out, which involves the most diverse and varied facets, whose historical and sociological contextualization makes evident the need for differentiated treatment depending on the opposing consumer to the market professional in several aspects.

It appears that consumer vulnerability in consumer relations is the main aspect that underlies the Consumer Law microsystem. Antonia Klee states that "the principle of vulnerability is the 'touchstone' for the regulation of relations between consumers and suppliers" [2].

This principle supports the consumer legislation that proposes inequalities between the parties involved in consumer relations, precisely so that they can reach a level as close as possible to equality.

The Brazilian Federal Constitution, for example, enshrines in its article 5 the principle of equality, establishing that "all are equal before the law, without distinction of any kind, guaranteeing Brazilians and foreigners residing in the country the inviolability of the right to life, liberty, equality, security and property". Through this principle, the legislator intended to deliver to all individuals the right to equal justice, with the objective of securing fundamental rights against arbitrary and unreasonable actions, allowing the elaboration of devices that establish equality between individuals, removing privileges or any kind of chase. In the words of Carmen Lúcia Rocha, it is "a legal way to overcome the isolation or social decline to which minorities are subject" [3].

In this sense, the Major Law, through the principle of isonomy, condemns the lack of equality between people, all with the aim of curbing abusive practices carried out against the citizen, seeking to equate the weaker side in relation to the stronger, to who fights for his rights in court, under equal and fair conditions.

However, constitutional provisions are not enough. Mechanisms capable of providing this equivalence in practice must be created. According to Dallari, "it is not enough to say that everyone is equal before the law; it is essential that everyone be assured, in practice, of a minimum of dignity and equal opportunities" [4].

Therefore, to achieve this isonomy, placing members of society in the same conditions of opportunity, many times, in practice, one must benefit to the detriment of others. This weighting is necessary to provide justice to the most vulnerable, through mechanisms that provide parity to the unequal or minimize existing inequalities.

According to lessons from Mello, the Law should be used as "a regulatory instrument for social life that needs to treat all citizens equitably. This is the political-ideological content absorbed by the principle of isonomy" [5].

It is in this context that, in Brazil, the Consumer Protection Code enshrines the principle of vulnerability as one of its pillars of support, providing unequal treatment to those who are unequal, placing the most fragile in equal conditions, which translates into a stage of evolution in the protection of human dignity, having as its essence the

equalization of the consumer to the supplier, enabling the latter to have real conditions to defend their rights arising from a consumption relationship in an egalitarian and fair way.

It aims to provide greater equality between the participants in a consumption relationship, so that, in the words of Sérgio Cavalieri Filho, “recognizing the existing inequality, we seek to establish a real equality between the parties” [6], because as the parties are materially unequal, legal equivalence is required so that balance and harmony in consumer relations can be guaranteed, which does not violate the principle of isonomy, given the evident inequality between them.

Marques and Miragem teach that “the notion of vulnerability in law is associated with the identification of weakness or weakness of one of the subjects of the legal relationship due to certain conditions or qualities that are inherent to it or, even, to a position of strength that can be identified in the other subject of the legal relationship” [7].

Vulnerability is universal, characterized by affecting all consumers, without distinction, given that on the other side of a consumption relationship there is always a supplier with more resources and knowledge related to the product or service object of the relationship, as well as greater preparation for the moment of signing the legal transaction, being a common activity, while for the consumer, the acquisition of a certain product or service, does not have the same dynamics, and may even be unique or occasional.

Simply put, in the words of Soares, “vulnerability is nothing more than the legal recognition that one of the contracting parties is the weakest party in the contractual relationship” [8].

In the practical context, the principle of vulnerability starts to have effects when recognized by the legal system.

In this sense, Moraes teaches that it is about: “the principle by which the Brazilian legal system recognizes the quality or condition of the weakest subject(s) in the consumption relationship, bearing in mind the possibility that it will come(m) to be offended or injured, in their physical or psychic integrity, as well as economic scope, by the most powerful subject(s) of the same relationship” [9].

It is also worth mentioning the contractual obligation of the parties to observe the principles of probity and objective good faith. It is evident that the supplier's recognition of the consumer's vulnerability is an intrinsic element of the objective good faith of the legal transaction to be entered into between them.

Indeed, consumer vulnerability requires the use of good faith by the supplier, so that he understands the existing inequalities in the consumption relationship and how vulnerable the consumer is, and must act with true loyalty, detailing the product and conditions contracts in the most transparent way possible and, mainly, informing the consumer of all the conditions of the business, regardless of the means used to carry out the sale.

3.2 The consumer's social vulnerability

Despite the vulnerability being universal and affecting all consumers, its aggravation may occur according to the personal characteristics of the consumers involved. It is in this sense that social vulnerability deserves to be highlighted.

An important point is made by Del Masso, when he states that “human superiority no longer seems to be in knowledge, but in being” [10], so that modern man substitutes his values for the myth of consumption, prioritizing material needs, above all those available in shopping malls. In this context, it can be said that the superiority of postmodern man even surpasses being, found in having.

The general consumption process, transformed into a spectacle, affects the image and the very soul of man, who no longer responds to his own needs, as well as his own image, which are currently formed by society to the detriment of individual will [11].

Dennis and Loiane Verbicaro add that: “In this context, technique becomes psychotechnics, manipulation devices typical of the fetishistic appearance of mass societies. People become what the system, crushing them, forces them to be. They are all so impregnated by the cultural industry's schemes and its systematic and programmed exploitation of 'cultural goods' for commercial purposes, that what one sees is an attempt to make a life of oneself that corresponds, ipso facto, to the model presented by its standards, from which spontaneity and individual freedom are conceived in terms of the mere abstraction of thought. This is the trump card of advertising and the manipulation of the cultural industry, the result of which is the compulsive mimesis of consumers to the cultural goods of industrial and consumer society and the naturalization of its language to the point of creating a repertoire of standardized and stigmatized festivities” [12].

In the current consumer society, people feel inserted from the moment they acquire the objects that are in fashion. A good part of the products are acquired not because they are necessary, but because everyone has them or because they convey the image that, in order to be well seen, said product is essential.

In the words of Verbicaro: “there is a permanent need for consumer self-affirmation, which seeks to imitate behaviors and consumption habits of a reality created by the ill-fated cultural industry, which, subliminally, functionalizes consumer choices according to the global standard of consumption in which he does not participate as an indicative source of his needs, but only as a member of the subservient mass of financing this vicious circle of unconscious and irresponsible consumerism” [13].

Especially in Brazil, for example, people change their cars very often. But is the exchange really necessary? Most of the time not, but even so, people sink into debt to be able to parade with their new car, which does exactly the same thing as the old car: urban transportation.

Consumption becomes a mechanism for satisfying desires and supposedly indispensable demands, studied by professionals from the most diverse areas with the aim of making people consume more and more.

Nilton Cesar Flores adds that “Mass consumption is built to meet a social and commercial need, whose base and strategic reference involves the recognition of symbols, brands, social status and quality; that can be identified regardless of the nationality, religion, culture or economic power of the individual. The symbol affects everyone and leaves us fascinated by what it represents. The product ceases to be a product and becomes an emotion, the individual does not have a watch, he has a Rolex; she doesn't have a purse, she has a Louis Vuitton; he doesn't have a cell phone, he has an iPhone; he doesn't have sneakers, he has a Nike. In all these cases, the brand symbol transcends the product itself and expresses an emotion” [14].

In this consumer society, advertisements, for example, can direct people's habits. In this regard Del Masso clarifies that: “the advertising language is loaded with social stereotypes, the constant commandment in an advertisement is that of social exclusion for those who are not willing to acquire a certain product or service. This imposition produces drastic effects not only on people who feel obliged to be aware of trends in purchasing products and, therefore, to be accepted socially, but, above all, for those who often seek illicit ways to guarantee their social space” [15].

In the wake of social vulnerability, people start to buy products, even unnecessary ones, to be accepted in a certain group or social class.

See Del Masso's conclusion on the subject: “the conclusion that can be drawn from all this is that the consumer, in Brazil at least, understands consumer goods as meanings that lead to the division of social classes, that is, the

goodof consumption represents the indication of the difference, and the way to progress, or better, to demonstrate the social ascension, indicated by the goods that it consumes. Thus, the consumer presents a form of symbolic schizophrenia, because the consumption objects are real, but their meanings are unreal" [16].

Thus, daily, suppliers take advantage of this condition of social vulnerability of consumers to encourage them to purchase products, under penalty of being excluded from their circle of friends or even from society.

The boost to mobility in the social pyramid is one of the explanations for ostentatious consumption [17].

IV. Conclusion

It was possible to conclude that there is social vulnerability, given that, even without financial conditions, most consumers go into debt to obtain products in order to feel accepted by society.

It follows, therefore, that daily, suppliers take advantage of this condition of social vulnerability of consumers to encourage them to purchase products, under penalty of being excluded from their circle of friends or even from society.

It was found that the need to boost mobility in the social pyramid is one of the explanations for ostentatious consumption, which deserves special attention from the authorities, to minimize the effects of this new type of vulnerability.

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