



# Unclear if consumer act applies to estate agents

It is not yet clear whether the Consumer Protection Act will apply to the real estate industry, an agency said on Monday, 4 April 2011.

"There seems to be many varying opinions in this regard," said Herschel Jawitz, CEO of Jawitz Properties, in a statement.

"The fault must lie with government whose implementation of the Act, especially with regard to the regulations, leaves much to be desired and only serves to create uncertainty and ambiguity in the market," he said.

Jawitz said, however, many parts of the act, which came into effect on 1 April, made "good business sense" for buyers, sellers and agents.

This included a definition of the 'voetstoots' clause and making sure offer to purchase agreements were clearly worded.

"However, the issues relating to fixed term contracts and the cancellation thereof remain a grey area."

This could even conflict with the Estate Agency Act which regulates the industry, he said.

"While consumers need to be protected, the cancellation clause and the fees that the sellers will be charged to cancel the mandate agreement are in no one's best interest.

"They may work for cellphone contracts where consumers are 'locked' in for two years, but they don't work for exclusive mandates where the period of the mandate is generally only four to six months."

Jawitz said agents worked at a risk as if they did not sell the property, they would not receive commission.

"Sellers and buyers need to make sure that the agencies they deal with are CPA compliant otherwise they risk potentially prejudicing themselves and getting caught up in a legal process that could have been avoided," he advised.

"Agents have a responsibility to make their clients aware of the CPA and its implications for both sellers and buyers. It is certainly not business as usual."

*Source: Sapa*