朝陽科技大學 092學年度第1學期教學大綱
Consumer Protection Law 消費者保護法

當期課號	1557	Course Number	1557
授課教師	林正雄	Instructor	LIN,CHENG HSIUNG
中文課名	消費者保護法	Course Name	Consumer Protection Law
開課單位	企業管理系(四日)四A	Department	
修習別	選修	Required/Elective	Elective
學分數	3	Credits	3
課程目標	隨著台灣經濟的起飛與科技的進步，消費的時代亦隨之而來。我國消費者保護法於民國八十三年一月十一日公布施行，本質上爲消費者保護基本法的保護性質；於實行十年後，復於九十二年一月廿二日又爲部分條文之修正，俾利更周全地保護消費者，爲我國消費者保護法制工作樹立了一個新的里程碑。消費者保護跟每個人的權利有密切關係，所以政府、企業經營者、消費者全體都應努力做好消費者保護工作，使消費者能採取正確合理之消費行爲，同時消費者本身也要有防範各項危險的自覺意識，以維護自己的安全與權利。	Objectives	The Consumer Protection Law(hereinafter "this law") was promulgated on January 11, 1994 and effective on January 13, 1994, and also amended in on January 22, 2003. this Law is enacted for the purposes of protecting the interests of consumers, facilitating the safety of the consumer life of nationals, and improving the quality of the consumer life of nationals. According to the Article 4 of this law ,with regard to goods or services provided by them, business operators shall pay attention to the health and safety of consumers, and shall explain to the consumers the methods of use for goods and services, ensure the fairness of transactions, provide consumers with adequate and accurate information, and implement other measures necessary to protect consumers.And of course, All the government, business operators and consumers shall endeavor together to enhance consumer information, provide the same to be used by the consumers so as to ensure that appropriate and reasonable consumer behaviors can be adopted, in order to ensure their safety and interests.
教材		Teaching Materials	
成績評量方式	期中考與期末考	Grading	test
教師網頁			
	內容概要: 隨著台灣經濟的起飛與科技的進步，消費的時代亦隨之而來，消費者與企業經營者由於在經濟上、資訊上、財力上均爲弱者，一旦受有糾紛或損害時，往往求助無門，因此，消費者保護法乃因應而生。消費者保護法業經　總統於民國八十三年一月十一日公布施行，具有消費者保護基本法的保護性質；消費者保護法施行細則亦經行政院於八十三年十一月二日發布實行，並且於九十二年一月廿二日又爲修正部分條文，俾利更周全地保護消費者，爲我國消費者保護法制工作樹立了一個新的里程碑。消費者保護跟每個人的權利有密切關係，所以政府、企業經營者、消費者全體都應努力做好消費者保護工作，使消費者能採取正確合理之消費行爲，同時消費者本身也要有防範各項危險的自覺意識，以維護自己的安全與權利。且我國消費者保護法內含著許多較民法等更爲「超前」「進步」的法律概念，		Chapter I - General Principles Article 1 This law is enacted for purposes of protecting the interests of consumers, facilitating the safety of the consumer life of the nationals, and improving the quality of the consumer life of the nationals. The protection of consumers shall follow the provisions of this law. Where this law does not provide, other laws shall be applicable. Article 2 Definitions to be used in this law are as follows: The term "consumers" means those who enter into transactions, use goods or accept services for the

教學內容	例如：打破民法上向來以過失責任爲中心的「無過失賠償責任」，將契約自由原則更加落實其社會化，將不適宜之契約認定爲無效、引進英美法上的「懲罰性賠償金」、增加「消費訴訟」、「不作爲訴訟」等，並對企業經營者的經濟活動與責任範圍加以規定，是一部集合了公法與私法、實體法與程序法、社會政策與經濟政策於一身的法律，期透過本課程，讓吾人培養身爲企業經營者時應有之消費者保護的概念，身爲消費者時又如何地確保自身的權利。 壹、消費者保護法之立法目的爲何？ 消費者保護法之立法目的主要乃： （一）保障消費者權益； （二）促進企業良性發展 貳、何謂企業經營者？ 所謂企業經營者，依照消費者保護法第二條第二款的規定，是指以設計、生產、製造、輸入、經銷商品或提供服務爲營業者。其意義說明如下： （一）企業經營者爲營業之人： （二）企業經營者的種類：企業經營者依其責任可分爲下列類別： １從事設計、生產、製造商品或提供服務之企業經營者。（第七條） ２從事經銷商品或服務之企業經營者。（第八條） ３從事輸入商品或服務之企業經營者。（第九條） ４從事刊登或報導廣告之媒體經營者。（第二十三條） 參、何謂「消費關係」？ 消費係指以消費爲目的而交易使用商品或接受服務者而言，因此消費關係係指消費者與企業經營者就商品或服務所發生之法律關係。 第二節 健康與安全保障 企業經營者沒有過失也要負責嗎？ 第 7 條 從事設計、生產、製造商品或提供服務之企業經營者，於提供商品流通進入市場，或提供服務時，應確保該商品或服務，符合當時科技或專業水準可合理期待之安全性。 商品或服務具有危害消費者生命、身體、健康、財產之可能者，應於明顯處爲警告標示及緊急處理危險之方法。 企業經營者違反前二項規定，致生損害於消費者或第三人時，應負連帶賠償責任。但企業經營者能證明其無過失者，法院得減輕其賠償責任。 第 7-1 條 企業經營者主張其商品於流通進入市場，或其服務於提供時，符合當時科技或專業水準可合理期待之安全性者，就其主張之事實負舉證責任。 肆、消費者保護法第七條所規定之責任是否爲「無過失責任」？ 消費者因有瑕疵之商品或服務遭受損害時，如何請求損害賠償?依傳統民法侵權行爲理論，係採「過失責任」，即須證明該商品瑕疵或服務瑕疵之形成，企業經營者有故意或過	**Syllabus**	purpose of consumption. The term "business operators" means those who are in the business of designing, producing, manufacturing, importing, or distributing goods or providing services. The term "consumer relationship" means the legal relationship arising between consumers and business operators for sale of goods or provision of services. The term "consumer dispute" means a dispute between consumers and business operators as a result of the sale of goods or provision of services. The term "consumer litigation" means a litigation brought with a court as a result of a consumer relationship. The term "consumer protection groups" means those juristic persons established in accordance with the laws for the purpose of protecting consumers. The term "standard contracts" means those contract terms unilaterally prepared by business operators for entering into contracts with nonspecific, multiple parties. The term "mail order purchase" means the type of transaction in which business operators use mail or other means of delivery for the sale of goods. The term "door-to-door sale" means the purchase and sale as a result of sales activities by business operators at the premises of the consumers or other locations without any invitation. The term "installment sales" means the type of transaction in which a purchase and sale contract provides for the consumers to pay a down payment, with the balance to be paid in installments, and the business operator shall deliver the subject matter to the consumers upon receipt of the down payment. Article 3 In order to achieve purposes of this law, the government shall implement the following measures and shall periodically review, coordinate and improve upon the laws and regulations relating to the following matters and their enforcement: Maintaining the quality, safety and sanitation qualities of goods and services; Preventing goods or services from injuring the lives, bodies, health, properties or other interests of the consumers; Ensuring that the labeling of goods or services shall meet the requirements or laws and regulations; Ensuring that the advertisements of

	失，方可請求損害賠償，此對消費者即爲不利。因此，消費者保護法第七條遂規定，從事設計、生產、製造商品或提供服務的企業經營者，對於消費者應負「無過失責任」，如因商品或服務有瑕疵，致消費者遭受損害即應負損害賠償責任，而不問企業經營者是否有故意或過失。惟企業經營者若能證明其無過失者，法院得減輕其賠償責任 。分別說明如下： （一）製造者的義務：依照消費者保護法第七條之規定製造者的義務有： １確保其提供之商品或服務，符合當時科技或專業水準可合理期待之安全性（無安全或衛生上之危險）。（第一項） ２商品或服務具有危害消費者生命、身體、健康、財產之可能者，應於明顯處爲警告標示及緊急處理危險之方法。（第二項） （二）製造者的責任：依照消費者保護法第七條第三項規定：「企業經營者違反前二項（第一項及第二項）規定，致生損害於消費者或第三人時，應負連帶責任。但企業經營者能證明其無過失者，法院得減輕其賠償責任。」企業經營者只要有違反義務的事實發生，即須負責，而不問企業經營者有無故意或過失，係採「無過失責任」主義。即使企業經營者能證明其無過失，亦只能作爲減輕賠償責任之事由而已。 （三）製造者應負無過失責任之要件： １依照消費者保護法施行細則第四十二條規定：「本法對本法施行前已流通進入市場之商品或已提供之服務不適用之。」企業經營者對於在消費者保護法施行後流通進入市場之商品或提供之服務，始應依消費者保護法規定負無過失責任。 ２企業經營者在消費者保護法施行後，於其所提供的商品或服務流通進入市場時，具有安全或衛生上之危險（即具有缺陷）者，即須對因而受有損害之消費者負無過失之損害賠償責任。換言之，如商品或服務於提供時未具有安全		goods or services shall meet the requirements of laws and regulations; Ensuring that the measurements and weights of goods and services shall meet the requirements of laws and regulations; To facilitate the maintenance of reasonable prices for goods and services; To facilitate the reasonable packaging of goods; To facilitate the fair trade of goods or services; To facilitate the encourage consumer protection groups; To support and encourage consumer protection groups; Promoting consumer education; Handling consumer consulting services; and Other consumer protection measures necessary for the development of the consumer laws. In order to achieve the foregoing purposes, government shall enact relevant laws. Article 4 With regard to the goods or services provided by them, business operators shall have regard to the health and safety of consumers, and shall explain to the consumers the methods of use for goods and services, ensure the fairness of transactions, provide consumers with adequate and accurate information, and implement other measures necessary to protect consumers. Article 5 The government, business operators and consumers shall all endeavor to enhance consumer information, provide the same for the use of the consumers so as to ensure that appropriate and reasonable consumer behaviors can be adopted, so as to ensur

尊重智慧財產權，請勿非法影印。