



Australia's Competition & Consumer Laws – What they mean for your clients

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**Australian
Competition &
Consumer
Commission**

Cartels

- Agreement/understanding between competing businesses about how they will (or won't) compete
- Includes agreeing with competitors to:
 - sell goods/services at the same price
 - restrict the quantity of goods produced/sold
 - share a market (e.g. divide into areas)
 - rig bids for a tender process
- Penalties: up to \$10m / 3 x benefit / 10% of annual turnover
 - Fines/jail for individuals involved
- Limited exemptions (e.g. joint venture)
- Immunity

Mergers

- CCA prohibits mergers that would have the effect/likely effect of substantially lessening competition in a market
 - Penalties: up to \$10m / 3 x benefits / 10% of annual turnover
 - Can be ordered to divest acquisition
- Two avenues to have merger considered by ACCC:
 - Informal review process
 - Formal clearance

Refunds, repairs and replacements

- ‘Consumer guarantees’
 - 9 for goods; 3 for services
- Major failure v minor failure
- Your client has obligations to consumers
- Your client also has rights



Misleading conduct/representations

- ✗ Making inaccurate claims
- ✗ Creating a false impression
- ✗ Leaving out/hiding important information

- ✓ Be honest
- ✓ Look at the overall impression created by your statements/advertisement – what would a typical customer think?

Truth in advertising



Was/now pricing

- ‘Was/now’ pricing is a legitimate marketing technique, as long as:
 - you don’t misrepresent the savings available
 - the product had been offered for sale at the ‘was’ price
 - a consumer would have paid the ‘was’ price for a reasonable period before the sale

- What is ‘reasonable’ will depend on the circumstances



Social media & online reviews

Example 1: ABC Pty Ltd tweets that it is the first Australian car wash to use 100% recycled water, but hasn't done any research to support this. It turns out another company has offered the same service for several years.

Example 2: A fan of DEF Pty Ltd posts a comment on DEF's Facebook page that DEF's product has cured her peanut allergy. DEF knows that the comment is incorrect (its product can't cure allergies), but decides to leave the comment up on its page.

Example 3: XYZ Pty Ltd posts fake customer testimonials on its Facebook page and Google+.

Selling safe products

- Product safety laws apply to all businesses in the supply chain (e.g. manufacturers, wholesalers, retailers)
- Mandatory safety/information standards
- Bans
- Recalls
- Mandatory reporting (deaths, serious injuries, illnesses)

www.productsafety.gov.au

Scams targeting small businesses – 2014

Scams reported

4 625

reports by small businesses
11.9% reported losing money

Amount lost

\$5.5 million

Top 5 scams by losses

\$ 1 016 532	Overpayment scams
\$999 200	Investment schemes
\$949 377	Hacking
\$222 329	False billing
\$151 134	Ransomware & malware

* excludes reports categorised as 'other'

40%
of reported losses
were over **\$1 000**



11%
were more
than **\$10 000**

Top 5 scams by reports



* excludes reports categorised as 'other'

Delivery method





Competition & consumer law Education programs

Welcome. This website contains a suite of learning tools funded and produced by the Australian Competition and Consumer Commission (ACCC) to help users increase their knowledge of the *Competition and Consumer Act 2010*.

Small business



10 modules.

Read through the information then test your understanding with the quiz.

Tertiary students



12 modules.

Tertiary program for students and teaching resources for educators.

Franchisees



5 modules.

Franchise education modules to help you assess franchise business opportunities.

More information

- Small Business Helpline: 1300 302 021
- Small Business Info Network (free email updates)
 - self-subscribe at www.accc.gov.au/sbin
- www.accc.gov.au/smallbusiness
- www.ccaeducationprograms.org
- ACCC LinkedIn page