

Conduct becoming

When starting up a business, whether in retail or a service industry, consider the risks as well as the potential profits. There are always risks. If you go into business without being fully aware of your obligations under the Trade Practices Act to consumers and other businesses, there could be unwelcome consequences. They could include bad publicity, a loss of custom, low staff morale and even court proceedings.

Major risk areas include consumer protection, anti-competitive conduct, unconscionable conduct and industry codes. Rank your risks in order of vulnerability. For example, bad debts may be a minor problem compared with how you deal with consumers seeking to enforce warranties or claim refunds.

When dealing with consumers – and other businesses – ensure that your conduct is neither misleading nor deceptive. Truthfully describe the quality of your products and the country of origin. To label a item “product of Australia” the significant ingredients must be Australian and all, or virtually all, of the production processes must have taken place in Australia.

It is vital that the price you quote is the full price, including the GST. There should be no shocks for consumers at the cash register or in invoices.

In advertising, take care with the fine print. When highlighting the upside of a deal don't forget that the qualifications must be clearly presented. Consumers should not have to follow a trail of asterisks to discover the fine print to get the full message.

A retail chain admitted to misleading customers through fine print qualifications. It advertised discounts on all clothing but the fine print excluded items commonly considered to be clothing. Many consumers were unaware of this until they reached the checkout.

The Federal Court issued injunctions restraining the company from similar advertising for four years, ordering it to review its trade

practices compliance program and to pay the ACCC's costs of \$65,000.

Be aware of any anti- competitive conduct in dealings with other businesses such as price fixing and resale price maintenance. To avoid breaching the Trade Practices Act set prices for your goods and services independently of your competitors. Agreements with competitors on what to charge are unlawful, whether in writing or not.

An Internet café operator wrote to a nearby competitor requesting it to set a minimum price of \$5 an hour and threatening to compete more aggressively if the rival refused the request. The ACCC instituted legal proceedings and the court imposed a penalty of \$5000 on the operator.

Don't agree with competitors about what products or services to sell, to whom you will sell don't join them in a boycott by jointly refusing to sell to or buy from another business or person.

It is also unlawful to sell goods on the condition that the other buyer purchases something from someone else. An example would be a car dealer insisting that a buyer only obtain finance from the company it nominated.

Unconscionable conduct occurs when a larger business takes advantage of a smaller business or a consumer. Some traders are especially vulnerable when selling the business is conditional on a lease being renewed.

If you are a franchisee or franchisor remember that the Franchising Code of Conduct is an integral part of the Trade Practices Act. Breaking the code can risk court proceedings. The ACCC has booklets and leaflets to help avoid risks.

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