

Consumer Protection

Customers (Consumers) in Australia are protected by law against businesses (Suppliers) attempting to force them into certain types of purchasing actions.

The Competition and Consumer Act 2010 is the relevant Act and is directed to maintaining a balance of fair competition in the market place.

The Act is administered by the Australian Competition and Consumer Commission (ACCC). Any person or business operating in Australia can bring to the attention of the ACCC any alleged instance of anti-competitive behaviour which may breach the relevant sections of the Act.

There are various types of activities which may give rise to anti-competitive behaviour. In simple terms, where one party exercises some form of misuse of market power, exclusive dealing or third line forcing this will give rise to a breach of the Act. These are behaviours which in essence seek to constrain a customer from fairly engaging with a different supplier due to some activity by the original supplier.

For example a misuse of market power may occur where an incumbent monopolist supplier pressures its customers to exclusively deal with it in respect to certain products under threat that it will otherwise withdraw the supply of other goods, services, warranties or other protections. Given its power in the market, customers tend to fall into line and find themselves unable to source all products and services at the best available prices not provided by the incumbent powerful supplier. In this way the market is limited, competition is restricted and the benefits to all parties other than the powerful incumbent supplier are reduced.

A great analogy is that a car manufacturer (say Toyota) cannot mandate that customers can only buy Shell petrol. It is illegal for Toyota to threaten to withdraw warranties or refuse to provide maintenance if you use petrol from BP.

It is strongly recommended that you ask suppliers to put any conditions of supply in writing. If they are legal then they should have no hesitation (however it still may be illegal!). If they will only tell you verbally then this may arise suspicion and you can still report it.

What you can do if you believe your rights have been infringed?

Contact the Australian Competition and Consumer Commission (ACCC) and advise them of your concerns.

You can call the ACCC Infocentre on 1300 302 502 or visit their website and complete and online complaint form:

www.accc.gov.au/contact-us/contact-the-accc/small-business-complaint-form

*Whiteley Medical are not offering you legal advice. We believe all customers have the right to legal and ethical conduct from all suppliers and that you should have the best products in a competitive market.