

## **The importance of LMCTs providing accurate information to their customers about consumer guarantees under the ACL.**

### **This is not legal advice.**

In a timely reminder for Licensed Motor Car Traders (LMCTs), many of whom are currently enjoying favourable trading conditions, you will find [in this link](#) a notice issued by the ACCC advises of the importance of dealing accurately with customer disputes under the provisions of the Australian Consumer Law (ACL).

The need for absolute accuracy was observed in a recent Federal Court of Australia (FCA) decision, which handed a penalty of \$75,000 to caravan manufacturer Jayco Corporation Pty Ltd (Jayco).

### **How did the FCA action come about?**

The ACCC acted in the FCA after it had alleged that Jayco had made false and misleading statements to four of its customers and had the consumers a replacement or refund for defective goods where there was a defective product. The defect amounted to a major fault under ACL provisions.

### **What did the FCA find?**

In November 2020, the FCA dismissed the majority of the ACCC's case, including the allegation that Jayco had acted unconscionably towards four consumers by denying them the right to a refund or replacement for their defective caravan.

However, the FCA found that Jayco had misled one consumer by representing that the consumer was only entitled to have their caravan repaired, when in fact a consumer's rights under the ACL when there is a major failure can include a refund or replacement.

The FCA order found that in this one instance, the consumer was misled. LMCTs need to ensure they are well versed in the detail of the ACL, as a misinterpretation may lead to financial loss or significant brand damage.

### **What should LMCTs do to ensure they are complying with their ACL obligations?**

LMCTs should revisit their customer complaints handling procedures when dealing with issues relating to the ACL.

LMCTs should respond to any dispute in a timely manner and ensure that consumer facing staff are aware of the LMCT obligations by issuing a copy of the ACCC's [Motor vehicle sales & repairs-an industry guide to the Australian Consumer Law](#) .

VACC LMCT members should continue to reach out to their own legal advisors, or to VACC, for any issues relating to the ACL.

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