

Dear member

The Australian Government recently released, for public consultation, a Regulatory Impact Statement (RIS) aimed at improving the effectiveness of the consumer guarantee and supplier indemnification provisions under the *Australian Consumer Law (ACL)*. The paper includes options for civil prohibitions and penalties for suppliers that fail to provide a consumer guarantees remedy (i.e. replacing faulty parts, and manufacturers that fail to indemnify suppliers).

The ACL provides that a manufacturer can limit their liability to provide one of the following remedies or whichever is the lowest amount:

- the cost of replacing the goods
- the cost of obtaining equivalent goods; or
- the cost of repairing the goods.

A manufacturer's liability to a supplier remains for three years after the supplier has provided a consumer with a remedy, or three years after the day on which proceedings were first commenced by a consumer against the supplier, whichever is earliest. [\[1\]](#)

What does this mean for members?

Members often face difficulties when seeking a refund or compensation for lost productivity when replacing a product with a manufacturing fault.

The focus of this inquiry is broad ranging and includes all industry sectors, particularly new car retailing, including an assessment of options for the following:

- to ensure businesses comply with consumer guarantees and that consumers can access the remedies, which they are entitled to under the ACL; and
- to prohibit manufacturers from failing to indemnify suppliers and prohibit retribution by manufacturers against suppliers who seek indemnification.

The paper is available on the [Treasury website](#), with submissions closing 11 February 2022.

VACC will be making a submission on behalf of its members, and we are seeking your feedback.

Please complete the survey by taking the link below and provide examples of where a manufacturer or supplier has failed to provide a remedy and the impact it has had on your business.

https://www.surveymonkey.com/r/Supplier_Indemnification_Survey

Alternatively, please contact the policy team to discuss on 03 9829 1111.

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[\[1\]](#) ACL, ss. 274(4)