

# BULLETIN

## All Members



Reference No: AM 22-17

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### New misuse of market power laws

Dear Member,

VACC has advocated strongly for many years to have section 46 of the Competition and Consumer Act 2010 (CCA) strengthened to protect small businesses in the automotive industry. Last week, the Federal Parliament passed amendments to section 46 of the CCA, which prohibits the misuse of market power.

The amendments strengthen section 46 in many ways, most importantly by removing the 'take advantage' test and extending it so that it focuses on "purpose and effect or likely effect of substantially lessening competition". This change has sometimes been referred to as "the effects test".

The new section will make it illegal for a business with substantial market power to engage in conduct that has the purpose, effect or likely effect of substantially lessening competition in the market in which it has substantial market power or in markets in which it or related businesses supply or are likely to supply or acquire goods or services.

The changes are not yet in force, and the Australian Government has not yet announced commencement date. The Federal Treasurer has announced that he will wait for other legislative reforms to the CCA to be enacted by Parliament before announcing a date for those amendments and the amendments to section 46 to commence.

[Here is a link](#) to the bill that has passed both houses of Parliament.

The Australian Competition and Consumer Commission (ACCC) are preparing to publish guidelines about the amended section 46. They'll outline the way we intend to investigate conduct under the amended law. The ACCC, VACC amongst other organisation will distribute these guidelines once they are available.

Sincerely

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