

Outcome of ACCC investigation of Hornet Industries Pty Ltd

Members are advised of recent action taken by the Australian Competition and Consumer Commission (ACCC) against recreational motorbike importer and distributor, Hornet Industries Pty Ltd.

A copy of the outcome of the ACCC investigation can be found by [taking this link](#).

About the action

The ACCC action was taken after VACC raised the concerns of Victorian regional motorcycle dealers who advised of agreements with Hornet Industries Pty Ltd that would prevent them from selling products at or below specified minimum prices and directing them not to sell below those prices. It is illegal for suppliers to impose minimum prices for the resale of their goods or services. The agreements supplied by Hornet Industries Pty Ltd were based on similar dealer agreements used in the United States.

The actions of Hornet Industries Pty Ltd were identified by ACCC as resale price maintenance, an action that is prohibited under the *Competition and Consumer Act 2010 (CCA)*. Further details relating to [minimum resale prices](#) can be found on the ACCC website.

What was the underpinning legislation for the ACCC action?

The action taken by the ACCC was taken under sections 96(3)(b), 96(3)(c), and 96(3)(f) of the CCA, in that it was likely to contravene section 48 of the CCA.

How did Hornet Industries Pty Ltd viewed by ACCC?

Hornet Industries has admitted that, from at least March 2021 to December 2022, it offered to enter into agreements with independent dealers (resellers) that prevented them from selling recreational bikes, including pit motorbikes, dirt motorbikes, quad motorbikes, and balance bicycles at a price below the minimum advertised price specified by Hornet Industries, and directed the independent resellers not to sell under that price.

What is the undertaking from Hornet Industries Pty Ltd?

Hornet Industries Pty Ltd has provided a court-enforceable undertaking to the ACCC, including committing to advise all its independent resellers that the agreements containing minimum price requirements have been withdrawn and that the independent resellers are free to set their own prices.

Hornet Industries Pty Ltd will also notify their dealers that any prices contained in Hornet Industries' communications are recommended prices only and there is no obligation to comply with the recommendation.

Other

VACC thanks members of its Motorcycle Industry Division for bringing this type of behaviour to the attention of the ACCC.

VACC also acknowledges the ACCC's 'Competition, Coordination and Strategy Division' for their work in this regard.