



“TERMS AND CONDITIONS”

Author: Naomi Dickson

The Fine Print

‘Subject to our Terms and Conditions’, is a term we often read at the end of a quotation, competition, sale agreement or simply a store’s returns policy. But who reads those, right? Wrong! While sometimes business owners think they are limiting the recourse that customers can have against them, the wording they use may be imposing unnecessary obligations on them to their absolute detriment.

When was the last time you had a good read of your business’ Terms and Conditions?

Make your T&Cs work for you

Like a valuable employee who develops, grows and gets better as your business does, so too must your Terms and Conditions keep up with what your business offers to clients or customers.

Terms and Conditions are a very important aspect of any business, they will govern how customers deal with your business and if there is ever a dispute your T&C’s may offer you valuable protection.

So many businesses use outdated or ‘borrowed’ Terms and Conditions which do not suit their operations or adequately protect them. When Terms and Conditions are drafted properly and incorporate all the necessary aspects of your business’ scope, they work for you!

Do your Terms and Conditions work for your business or against it?

Customers like them

Customers and clients like to be informed. The importance of your Terms and Conditions to your customers cannot be underestimated.

While they may not read them when they accept a quote or make a transaction, customers want to know your business has adequate dispute processes in place should they need them and that your services are properly defined so they know what they are buying or how much they may have to pay.

Your Terms and Conditions should contain appropriate definitions of your business’ practices and processes. This will make dealing with customers much easier and provides a level of transparency for your business’ dealings which you can refer to and rely on.

What definitions are in your Terms and Conditions? Are they correct, and do they flow logically?

Australian Consumer Law

The Australian Consumer Law in schedule 2 of the *Competition and Consumer Act 2010* contains provisions which prohibit businesses from making contract terms that restrict consumer’s rights for guarantees, liability and warranties. Further your business may be liable for pecuniary penalties for contravention of the Australian Consumer Law.

Do your Terms and Conditions limit your liability legally in accordance with the Australian Consumer Law?

Obligations

If you don't know what your Terms and Conditions say, we suggest you read them and get a good idea of what obligations they are imposing on your business and your staff.

We have seen Terms and Conditions that relate to the purchase of materials, when their business offered the supply of services. As such, their existing Terms and Conditions imposed on them unnecessary obligations which they were not in a position to fulfil. A new set of Terms and Conditions was required to be drafted to cater for their unique business services.

What kinds of obligations do your Terms and Conditions place on your staff in their dealings with Customers? Are these being met?

Your Unique Business

If you are passionate about your unique business, is this reflected in your Terms and Conditions? What we mean is, do your Terms and Conditions provide for your distinctive business operations and reflect your businesses branding and marketing?

We believe that a good set of T&Cs reflects the flavour of your business while protecting it at the same time.

Do your Terms and Conditions provide a holistic approach to your dealings with customers while still encompassing your business' branding?

Where to Next

First, read through your Terms and Conditions:

- Do they use language you can understand?
- Do you know what obligations are imposed on you?
- Do they define all aspects of your business correctly?
- Do they contain references to the Australian Consumer Law and other current legislation in your business' field?
- Are they appropriate for your business now and in to the future?

If the answer to even one of the above questions is 'No' it might be time to review your Terms and Conditions and seek some advice as to their legality and enforceability.

Contact our commercial law team today to chat about your Terms and Conditions and how we can help protect your business and make your Terms and Conditions work for you.

HOW TO CONTACT MBA

ADDRESS:

The Point @ Varsity
47 Watts Drive, Varsity Lakes,
Queensland Australia 4227
P O Box 398,
Varsity Lakes Qld 4227

Contact

Phone: 07 5539 9688
Fax: 07 5538 2651
E-Mail: Naomi@mba-lawyers.com.au
Website: www.mba-lawyers.com.au