



WARRANTIES AGAINST DEFECTS: IS YOUR COMPANY READY FOR 1 JANUARY 2012?

Rob Comazzetto, Partner

Rebecca Greco, Associate

From 1 January 2012, all products supplied to consumers with a warranty against defects **must** contain a mandatory prescribed statement on the warranty documentation (in some cases this may be the product packaging) and comply with the requirements of Regulation 90 of the *Competition and Consumer Regulations 2010* (Cth) as to the provision of information to consumers in the warranty documentation.

A "Warranty against defects" is any representation about goods or services communicated by a supplier to a consumer to the effect that a person will repair or replace the goods or part of them (or re-provide or rectify services provided), or compensate the consumer if the goods or services or part of them are defective. Common offers by suppliers which may be caught by the regulations include product warranties and guarantees provided over and above statutory guarantees as set out in the Australian Consumer Law.

Whilst there is no legal obligation that a warranty against defects be provided, if you choose to provide one it must comply with Regulation 90. **All suppliers of goods and services to consumers which carry warranties against defects will be affected by this change. This includes manufacturers, retailers and service providers.**

Failure to comply with Regulation 90 is an offence and may result in penalties up to a maximum of \$50 000 for a corporation and \$10 000 for an individual.

Those affected must review and revise **all** warranty documentation before 1 January 2012 to ensure compliance with Regulation 90. This includes review and revision of warranty cards, terms and conditions of sale and warranties given on packaging.

For further information, please contact one of the Cowell Clarke Competition and Consumer Law practice group members on 61 8 8228 1111.

Rob Comazzetto, Partner
rcomazzetto@cowellclarke.com.au

Carolyn Mitchell, Consultant
cmitchell@cowellclarke.com.au

Peter Leech, Special Counsel
pleech@cowellclarke.com.au

Rick Davies, Senior Associate
rdavies@cowellclarke.com.au

Rebecca Greco, Associate
rgreco@cowellclarke.com.au

© COWELL CLARKE 2011. No part of this document may in any form or by any means be reproduced, stored in a retrieval system or transmitted without prior written consent. This article is for general information only and cannot be relied upon as legal advice. Do not act on the basis of this article but seek specific advice from your legal adviser.

strategic. practical. astute.