

Competition and Fair Trading Law Compliance and Leniency Policy

Purpose

Heidelberg Materials Australia (HMA) is dedicated to compliance with the **Competition and Consumer Act 2010 (CCA)**, which imposes legal obligations on all HMA officers and employees in Australia.

It is a condition of your employment that you comply with the CCA.

Also, if you are involved in selling or supplying HMA products you must annually confirm your understanding, commitment to and compliance with HMA's Competition and Fair Trading Law Compliance and Leniency Policy.

Key principles

The CCA is designed to promote competition and fair trading and to protect consumers. Breaches of the CCA can lead to serious consequences for both HMA and you personally, including significant penalties and other court orders, as well as damage to our brand and reputation. A breach of the cartel laws could also lead to imprisonment for those individuals involved in the wrongdoing.

Competition Law

Some key competition law prohibitions under the CCA include:

- **Cartels:** Cartel laws prohibit competitors reaching certain agreements or understandings which limit the way they compete including by fixing prices, rigging bids, restricting product supply, or allocating between themselves the markets, customers, or territories in which they operate. It is a criminal offence for competitors to enter into these types of agreements or to give effect to them.

- **Anti-competitive conduct:** Contracts, arrangements, understandings, or concerted practices that have the purpose, effect, or likely effect of substantially lessening competition in a market.
- **Exclusive dealing:** HMA must not engage in exclusive dealing if it has the purpose, effect, or likely effect of substantially lessening competition. Exclusive dealing involves customers or suppliers imposing restrictions on each other about where, from and to whom they may buy or sell products and/or services (including re-supply of products/services). This includes extracting exclusivity commitments from customers or upstream suppliers for an anti-competitive purpose or with an anti-competitive effect.
- **Resale price maintenance:** HMA may recommend pricing to resellers (e.g. a genuine RRP) but must not stop resellers discounting or charging below a specified price.
- **Misuse of market power:** The CCA prohibits companies with substantial market power from engaging in conduct that has the purpose, effect, or likely effect of substantially lessening competition in a market. We need to be careful where we are in a market leading position not to engage in conduct that could be viewed as having an anti-competitive purpose or effect (e.g. in determining supply and pricing strategies or refusing to supply certain products or certain customers).
- **Mergers:** Corporations must not directly or indirectly acquire shares or assets if the acquisition would have the effect, or likely effect, of substantially lessening competition.

Fair trading and consumer protection

Some key Fair Trading obligations and consumer protections are included in the Australian Consumer Law (**ACL**) which is an important part of the CCA. Many of the protections in the ACL apply not just to 'consumers' but also to small businesses or in some cases, anyone that HMA deals with (including customers, suppliers or other businesses (large or small)).

- **Misleading and deceptive conduct:** HMA must not engage in conduct that misleads or deceives or is likely to mislead or deceive anyone it deals with, regardless of their size. You need to ensure that any statements about HMA, its operations, products and services are correct and up to date whether this is

part of contract negotiations, customer interactions, marketing and promotions or publishing forecasts or targets. HMA must be able to substantiate any other statements regarding its capabilities, performance, product quality or delivery commitments. We must also have reasonable grounds for any statements about future matters.

- **Unfair contract terms:** Terms in contracts with small businesses or consumers must not be 'unfair'. Watch out for terms that cause significant detriment to the other party and which do not seem necessary to protect HMA's legitimate business interests.
- **Unconscionable conduct:** HMA must not engage in unconscionable conduct when dealing with other businesses or their customers. Unconscionable conduct is conduct that is seriously unfair or unreasonable and that offends good conscience.

Key Obligations

All HMA employees are required to meet the following obligations:

- Always act honestly with customers, suppliers and other parties and don't engage in conduct or say anything, which is false, misleading, or deceptive. All communications and dealings must be factually correct and complete, whether oral, written or in any form of advertising or promotion.
- Don't engage in anti-competitive conduct with competitors or potential competitors. You must not share any competitively sensitive information or discuss pricing or customer details with competitors. Any contact with competitors must be for legitimate company or industry purposes.
- Any approach from a competitor which appears to be anti-competitive is to be rejected immediately and reported to the appropriate Commercial Manager, AEC member or HMA's General Counsel.
- Don't place restrictive conditions upon HMA's suppliers or customers (such as conditions not to supply to, or acquire goods and services from competitors), without the prior authority of the appropriate Commercial Manager, AEC member or HMA's General Counsel.
- Don't set or influence the price at which customers resupply, advertise, offer for sale, or promote our products.
- Don't damage a competitor of HMA or otherwise try and prevent competition.

Consequences for breaching the CCA

Any employee who breaches the CCA is liable to be dismissed with immediate effect.

The employee may also be personally liable for:

- penalties and costs in actions brought by the Australian Competition and Consumer Commission (**ACCC**); and
- damages, awards, and costs in legal actions brought by parties who are affected by the breach (eg competitors or consumers).

Leniency Principles

HMA has in place leniency and whistle-blower policies which are intended to limit any penalties or damages claims.

Under HMA's leniency policy, HMA may support employees, to the extent it is reasonable and lawful to do so. It is not lawful to pay or reimburse a penalty imposed on an employee.

To benefit under HMA's leniency policy you must:

- have completed the CCA related training;
- have not deliberately breached the CCA (or acquiesced to a breach by others); and
- have reported any breach immediately upon becoming aware of it.

Whistle-blower policy

- Breaches of the law put HMA's business at risk. An employee who reports a breach by a colleague is protecting HMA's business and the welfare of all employees.
- Under HMA's whistle-blower policy, HMA will support employees who assist in preventing breaches.

How to report a breach

You must report any breach (or suspected breach) to the appropriate Commercial Manager, AEC member or HMA's General Counsel. Alternatively, a report may be lodged on Speak Up at: [SpeakUp](#)

HMA's General Counsel will review all reports received and will determine what further action is required address the breach or suspected breach.

Policy Guideline

The Competition and Fair Trading Law Policy Guideline, which is available on the intranet, forms part of this Policy and sets out further details in relation to our CCA compliance programme.

If you have any questions or concerns about HMA's or your compliance with the CCA, please contact HMA's General Counsel.