

Consumer Protection

Consumer Protection is protective legislation that guarantees protection in law of consumers due to the vulnerable bargaining position consumers are in (inherent imbalance of bargaining power)

Competition and Consumer Act 2010 national consumer law regime that applies to all states and territories

Answering Consumer Contract Questions:

If a consumer contract exists, then the guarantees of products (9) and services (4) apply.

Step 1: Applicability

Is the buyer a consumer under s3(1) of Australian Consumer Law?

A person is taken to have acquired particular **goods or services** as a **consumer** if: **s3(1)**

- a) The amount of goods or services is **less than \$40,000 OR**
- b) Goods and services are of a kind **ordinarily** acquired for personal, domestic and household use or consumption OR
- c) Goods are a vehicle acquired for use on public roads

Example: The first step in evaluating consumer protection requires the buyer to meet one of the requirements of a consumer under Section 3(1) of the Australian Consumer Law: the goods ... As the _____ was purchased at \$ _____ (+ include section regarding supply)

Is the good a consumer good under s3(2) of Australian Consumer Law?

“Goods” include:

- d) *Ships, aircraft and other vehicles*
- e) *Animals, including fish*
- f) *Minerals, trees and crops, whether on, under or attached to land or not*
- g) *Gas and Electricity*
- h) *Computer Software*
- i) *Second Hand Goods*
- j) *Component, part of or accessory to goods*

AND ALSO, the goods are not acquired for re-supply or USED UP or TRANSFORMED in production or in the repair of other goods **s3(2)**

“Supply”: includes the exchange, lease, hire purchase of goods... not just the sale of goods. **s2(1)**

S51: the supplier has a right to sell or dispose of the property of the goods

S52: the buyer has the right to undisturbed possession of the goods

S53: the goods are free from any security, charge or encumbrance not disclosed in writing before the contract was made, meaning goods are not mortgaged in any way

Step 2: Guarantees

Once the 'consumer' and 'good' part have been established, move onto see which guarantees's apply under part 3-2 of the ACL

Example: Considering that the consumer law applicability has been established, there now a need to assess which consumer guarantees apply to ...