

Module	CONSUMER LAW
Jurisdictions	NEW ZEALAND
Legal Expert	TANIA GOATLEY Partner at Bell Gully https://www.bellgully.com/our-people/tania-goatley/ https://www.linkedin.com/in/tania-goatley-0310119a/

Module Scope

Does the organisation have policies and procedures in place to ensure that it is treating consumers fairly?

Does the organisation have an effective compliance programme to ensure that the organisation does not breach its obligations under fair trading, competition and consumer laws?

Does the organisation ensure that it is not engaging in any anti-competitive conduct or that it is not entering into any contract, arrangement or understanding that may be deemed anti-competitive or that may have the purpose, effect or likely effect of substantially lessening competition?

Does the organisation have policies and procedures in place to ensure that it complies with product safety standards and the obligations relating to the pricing of its goods and services?

Does the organisation have policies and procedures in place to ensure that it is complying with its obligations in relation to advertising and marketing, and that the organisation is not engaging in prohibited sales practices?

Module Application

The NEW ZEALAND CONSUMER LAW is designed to ensure healthy competition between businesses and the fair treatment of consumers.

The NEW ZEALAND CONSUMER LAW module informs organisations about their express obligations with regard to consumer law, and the practices and policies they should be implementing to ensure compliance with these legal obligations.

New Zealand consumer law is primarily established by the:

- › Fair Trading Act 1986 (FTA)
- › Commerce Act 1986
- › Consumer Guarantees Act 1993

The NEW ZEALAND CONSUMER LAW module covers how the laws established by these acts apply to anyone who, in trade, is supplying goods or services to consumers in New Zealand. The module also provides instructions and guidance to organisations about processes and procedures they should implement and maintain to ensure compliance with these laws.

The module covers prohibited business activities that are used by businesses to reduce market competition. These 'restrictive trade practices' are prohibited and include:

- › Cartel conduct
- › Misuse of market power
- › Bid rigging
- › Market sharing
- › Price fixing
- › Predatory pricing
- › Anti-competitive agreements
- › Boycotts
- › Exclusive dealing

The NEW ZEALAND CONSUMER LAW module outlines the importance of organisations having a robust and effective compliance programme in place that is tailored to the size and nature of the organisation. The programme must incorporate open communication, training, policies and procedures to mitigate risks across the organisation, including:

- › Assessing potential restrictive trade practices
- › Contracting with customers and other third parties
- › Product safety
- › Advertising and marketing
- › Complaints management
- › Pricing and price displays
- › Disclosure of consumer information
- › Sales practices

Other content areas covered by the module include:

- › Mergers and acquisitions
- › Parallel importing
- › Commerce Commission authorisations and clearances
- › Product labelling and safety standards
- › Product bans
- › Product recalls and other safety actions

New Zealand competition and consumer law is regulated by the Commerce Commission. The NEW ZEALAND CONSUMER LAW module also covers the requirement of businesses to fully co-operate with any lawful investigation or inquiry by the Commerce Commission, as well as the advantages of proactively consulting with the Commerce Commission with respect to any proposed conduct that may be deemed 'restrictive trade practices'.

The module also covers a range of obligations relating to advertising and marketing that organisations are required to comply with in relation to the goods and services they supply to consumers in New Zealand. This includes:

- › Consumer information standards
- › Promotions and competitions
- › Bait advertising
- › Email, SMS and MMS advertising, including the sending of unsolicited commercial electronic messages (known as 'spam')
- › Advertising Standards Code
- › Alcohol Advertising and Promotion Code
- › Children and Young People's Advertising Code
- › Gambling Advertising Code
- › Therapeutic and Health Advertising Code
- › Financial Advertising Code
- › Intellectual property
- › Misleading and deceptive conduct
- › Regulated products
- › Election advertisements

The NEW ZEALAND CONSUMER LAW module also covers the requirements that apply in relation to contracting with consumers, which includes:

- › Extended warranties and lay-by agreements
- › Guarantees in relation to goods and services
- › Fairness in contract terms

The module also covers a significant number of other laws, standards and codes that, in varying measures, touch on the relationship between businesses and consumers, including those related to:

- › The handling of personal information
- › Mandatory disclosures of information to consumers
- › Telemarketing and other forms of unsolicited sales practices
- › Conduct of salespersons
- › Unsolicited goods and services
- › Referral selling and pyramid schemes

The NEW ZEALAND CONSUMER LAW module also draws on numerous additional pieces of legislation, which impose obligations on organisations, including:

- › Consumer Information Standards (Core Labelling) Regulations 2000
- › Fair Trading (Infringement Offences) Regulations 2014
- › Search and Surveillance Act 2012
- › Unsolicited Electronic Messages Act 2007
- › Unsolicited Electronic Messages Regulations 2007
- › Gambling Act 2003

- Gambling Act (Game of Chance) Game Rules 2004
- Smokefree Environments and Regulated Products Act 1990
- Smokefree Environments and Regulated Products Regulations 2021 Consumer Information Standards (numerous)
- Produce Safety Standards (numerous)

The module covers possible consequences to organisations for breaches of New Zealand consumer law, which can include civil and criminal penalties:

- Monetary fines
- Injunctions
- Damages
- Disqualification
- Imprisonment
- Infringement notices

The NEW ZEALAND CONSUMER LAW module does not advise consumers as to their rights or procedures to follow in the event that they are not treated fairly by a business.

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