

## **Horse Services and the Australian Consumer Law**

Since 1 January 2011, businesses supplying services to horse owners have been subject to the Australian Consumer Law. Clients of vets, horse breakers and trainers, buyers' agents, studs (so far as they give information and advice to intending buyers to make decisions), dentists, farriers and chiropractors are now entitled to expect that particular statutory guarantees under the Australian Consumer Law will be observed.

One guarantee requires services to be delivered with "due care and skill". This has always been a legal requirement for businesses under the law. It means that services must not be negligently performed. If a client feels that a poor service caused an adverse outcome, he or she should get an independent opinion from someone reputable to back up the concern before taking the grievance any further.

Another guarantee requires that if the client, say of a buyers' agent or stud, makes known the result that is sought, then the services must be of a quality that might reasonably be expected to achieve that result. This guarantee does

not apply if the client did not rely on the advice or information (a question of fact) or that it was unreasonable to rely on the skill or judgment of the business. Experienced horse people should therefore consider if it is in their interests to disclose their superior knowledge and skill to the supplier: to do so will help the supplier argue that there was no reliance.

This guarantee of fitness for purpose is also not new as it has long formed part of State based consumer law regimes. But what is new and helpful to horse industry consumers is that wherever they are in Australia, the exact same guarantees apply whether both parties are in the same state or different states. Gone are the days when lawyers wasted time and money arguing over which state's consumer laws applied to a particular claim to gain some unfair legal advantage.

The guarantees do not apply to horse transport businesses when a horse is transported for the purposes of another horse business. So owners with a horse requiring transport should always arrange the transport and not leave it to any horse business involved, such as an agistment centre.

One purpose of the new Australian Consumer Law is to make it simpler for consumers to understand and exercise their rights. Businesses need to review their terms and conditions and raise their service levels to counter a probable increase in consumer activism.

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