



AUSTRALIAN COMPETITION
& CONSUMER COMMISSION

Commercial Construction Unit



acc.gov.au

The Australian Competition and Consumer Commission (ACCC) is currently prioritising anti-competitive conduct in commercial construction markets and has established a Commercial Construction Unit (CCU) focussed on the construction sector.

The CCU is a specialist team that has been set up to investigate allegations of anti-competitive conduct in the commercial construction sector. The focus is on the behaviour of participants in the construction industry that may raise competition concerns under the *Competition and Consumer Act 2010* (CCA).

Competition issues in the construction sector

The ACCC's role in the commercial building and construction industry is to detect, investigate and stop anti-competitive behaviour including:

- serious cartel conduct (including bid rigging, market sharing and price fixing)
- secondary boycotts
- exclusive dealing
- agreements or concerted practices which substantially lessen competition
- misuse of market power (including predatory pricing).

Australian Consumer Law provisions

Under the *Australian Consumer Law* (ACL), the ACCC also has a role in protecting individuals and businesses from unfair, unconscionable or coercive behaviour.

Unfair contract terms

Small businesses are protected from unfair contract terms in standard form contracts. The law applies if at least one of the parties is a small business (employs less than 20 people) and the upfront price payable under the contract is no more than \$300 000 or \$1 million if the contract is for more than 12 months.

Unconscionable conduct

The ACL prohibits businesses from engaging in 'unconscionable conduct' in their dealings with consumers and other businesses.

Coercion

The ACL provides that a person must not use physical force, undue harassment or coercion in connection with the supply of goods and services. Coercion involves force or compulsion or threats of force or compulsion negating choice or freedom to act.

About the ACCC

The ACCC promotes competition and fair trade in markets to benefit consumers, businesses, and the community. We also regulate national infrastructure services.

Competitive markets increase the prosperity and welfare of Australian consumers. The ACCC's role is to protect, strengthen and supplement the way competition works in Australian markets and industries to improve the efficiency of the economy and to increase the welfare of Australians.

The ACCC will take action where this improves consumer welfare, protects competition or stops conduct that is anti-competitive or harmful to consumers, and promotes the proper functioning of Australian markets.

Effective competition in the construction sector will deliver fairness to all businesses. It is important that all businesses can vigorously compete for work on their merits, are not subject to unfair contract terms, or the unconscionable or coercive conduct of others.

Contact us

For further information visit www.accc.gov.au/ccu. To report any anti-competitive behaviour in the construction sector, contact the CCU at ccu@accc.gov.au, or communicate with an investigator anonymously via www.accc.gov.au/CCUreports.

Apply for immunity

If you are involved in a cartel be the first to **apply for immunity** from prosecution in exchange for helping us with our investigations, by contacting:

T: 02 9230 3894

E: cartelimmunity@accc.gov.au