



Australian
Competition &
Consumer
Commission

KNOCK! KNOCK! WHO'S THERE?



Door to door sales—a guide for consumers

When you buy goods and services from a door to door sales agent, you have rights under law. This guide explains your consumer rights and the steps you can take to resolve problems.



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Door to door sales—a guide for consumers

Australian Competition and Consumer Commission
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1. About this guide

When you buy goods or services from a door to door sales agent, you have rights under the law.

The Australian Consumer Law provides a set of national laws that cover door to door sales, which give you specific protections such as the right to ask them to leave, receive certain information, and to cancel a contract within a 'cooling off' period. The Australian Consumer Law also provides you with other rights that apply to door to door sales agents, for instance the right not to be misled and to be treated fairly.

Many people feel pressured to buy products and services when approached at home by a door to door sales agent. This guide will help you deal with sales people at your door confidently and exercise your rights.

Remember:

- **It's ok to say no—if you are approached by a sales agent at your door, you don't have to agree to anything.**
- **If you want a door to door sales agent to leave, tell them—they must leave immediately.**
- **You do not have to agree to anything on the spot—if you feel pressured to sign something, tell the sales agent you want time to consider the offer.**
- **If you're thinking of switching service providers, such as for energy or phone services, contact your current provider to check if you're signed up for a set amount of time and if any cancellation costs will apply.**
- **It's ok to change your mind—if you agree to buy from a door to door sales agent but later decide the offer's not for you, simply exercise your 'cooling off' rights.**

For more information about your consumer rights, including for other sales methods, check out the Australian Competition and Consumer Commission website www.accc.gov.au

2. Door to door consumer rights—snapshot

Your door to door consumer rights apply when the sale of goods or services results from an ‘unsolicited consumer agreement’ (see chapter 3 of this guide).

If what’s on offer is valued at over \$100 (or the value can’t be determined when the offer is made), the agent must follow rules around how and when they can come knocking, what information they must give you, and your right to change your mind.

Your consumer rights at the door

A sales agent who contacts you at your door must:

- leave immediately if you ask them to and not return for 30 days
- not visit you at all on Sundays or public holidays, before 9 am or after 6 pm on weekdays, and before 9 am or after 5 pm on Saturdays without your permission
- show you their identity card and tell you their name, the contact details of the company they represent and why they are at your door
- tell you about your right to cancel the contract if you change your mind.

Your right to receive certain information

If you decide to buy at your door, the sales agent must provide you with an agreement to sign that contains certain information about what you are purchasing such as all terms in full, the total cost (or how this will be calculated if the total cost is unknown), and the sales agent’s and seller’s contact details.

The document must also contain information about your rights to cancel the agreement, and a form to exercise these rights if you change your mind.

Your right to change your mind

If you change your mind, you can—you have a 10 day ‘cooling off’ period to cancel the agreement. In some cases, your right to ‘cool’ off may be longer if the sales agent failed to abide by the law.

A seller can supply goods to you during the cooling off period if they cost \$500 or less. However, they cannot supply you with any goods that cost over \$500. They also cannot supply you with any services during the cooling off period, with the exception of electricity or gas services to households not already connected or where there is already a connection but no supply.

A seller cannot request or accept payment from you during the cooling off period, unless it is for the supply of electricity or gas.

Even if a seller supplies you with goods or energy during the cooling off period, you still have the right to change your mind and ‘cool’ off.

Energy sales

In addition to your rights under the Australian Consumer Law, you may have additional protections provided by industry-specific laws. Energy is an example where this is the case. In states and territories that have commenced the National Energy Retail Law, energy salespeople that market door to door must:

- observe no canvassing signs (such as ‘do no knock’ or ‘no advertising material’)
- maintain a ‘no contact list’, which means you can advise an energy retailer that you do not wish to be contacted by them
- provide you with an energy price fact sheet for each offer they are marketing, which clearly sets out all of the offer details including key terms and conditions.

To learn more, visit the Australian Energy Regulator’s Energy Made Easy website www.energymadeeasy.gov.au. Energy Made Easy has simple and easy to read information about a range of topical energy issues including comparing energy offers, energy efficiency, contracts and bills, and consumer rights.

REMEMBER: If you’re thinking of switching service providers, contact your current provider to check if you’re signed up for a set amount of time and if any cancellation costs will apply. Ask yourself: is the offer you are considering still the best deal after you’ve factored in exit fees?

Financial products and services

If someone approaches you at home—whether it be at the door or over the phone—offering you investments or financial advice, tell them to leave. An unsolicited offer of shares, financial advice or products is generally illegal. If the offer sounds too good to be true, it may be a scam and any money you provide will be lost.

If you want financial advice, make sure you only deal with a licensed financial adviser—by law, anyone offering you financial advice or products must have an Australian Financial Services licence issued by the Australian Securities and Investments Commission (ASIC).

Find out more about financial services and products at ASIC’s MoneySmart website www.moneysmart.gov.au.



3. What is an ‘unsolicited consumer agreement’?

The door to door consumer protections under the Australian Consumer Law apply only to ‘unsolicited consumer agreements’. This type of agreement occurs when:

- it results from negotiations by phone or at a location other than the seller’s place of business; and
- a seller, or their sales agent, approaches or calls you uninvited; and
- the total value is more than \$100 (or cannot be determined when the agreement is made).

Examples

A sales agent approaches a consumer in their home to buy a vacuum cleaner for \$400. This is an unsolicited agreement because the consumer did not ask the sales agent to contact them, the contact did not take place at the seller’s business premises and the total cost was more than \$100.

A consumer contacts a curtain seller and asks a sales agent to visit their home to measure their windows for curtains and provide a quote. The sales agent says that if the consumer places an order for the curtains that day, they will get a 10% discount. The consumer only asked for a ‘measure and quote’, not to actually purchase the curtains, so this would be an unsolicited consumer agreement.

The most common forms of sales methods that can lead to an unsolicited consumer agreement are door to door selling, telemarketing and when you are approached by a sales agent in a shopping centre.

Unsolicited agreements can also occur if:

- you provide your contact details to a business for one purpose, for example a competition entry, and the seller contacts you for a separate purpose, to sell another product or service to you
- you return a missed call from a seller or respond to any unsuccessful attempt by them to contact you.

Example

A sales agent approaches a consumer in a shopping centre away from their shop or stand to sell educational software costing \$850. This is an unsolicited consumer agreement because the consumer did not ask to be contacted.

Exclusions

If the purchase price of the product or service sold to you at your door is \$100 or less, the Australian Consumer Law door to door sales protections do not apply.

Example

A consumer purchases a pack of cleaning products from a door to door sales agent at a total cost of \$85. The consumer then changes their mind. However, because the contract value was less than \$100, it is not an 'unsolicited consumer agreement' and the consumer does not have 'cooling off' rights.

Some door to door sales agreements are not unsolicited consumer agreements, such as:

- business contracts for goods or services not usually for personal, domestic or household use or consumption
- when a seller contacts you and asks if you would like to renew an existing sales agreement such as for a home telephone service
- sales that occur at party plan events, when the host makes it clear that you are invited to the party to be sold something, and at least three people are invited.

Example

Six consumers are invited to a friend's home to view a demonstration of children's books for sale. One consumer orders over \$300 worth of books but the following day decides she wants to cancel the order. However, she has no right to 'cool off' since the sale took place at a party plan event.

Donations to charity, where no sale is involved, are not unsolicited consumer agreements. This includes donations received by a third party or contractor on the charity's behalf.

However, you have other consumer rights that may apply—see chapter 6 for more information.



4. Your consumer rights at the door

This chapter provides a summary of your rights when a door to door sales agent comes to your door.

Sales agents can only contact you on specific days and times

It is unlawful for a sales agent to come to your door:

- on a Sunday or public holiday
- before 9 am or after 6 pm on a weekday
- before 9 am or after 5 pm on a Saturday.

However, a sales agent can visit you at any time if they arrange an appointment with you beforehand.

Sales agents must leave when asked

A sales agent must explain to you that they are required to leave your premises at your request.

If you ask a sales agent to leave, they must do so immediately—it is unlawful for them to stay.

A sales agent must not contact you on behalf of the same seller again for at least 30 days for the purpose of negotiating an unsolicited consumer agreement (or for an incidental or related purpose). However, it is common for sales agents to sell on behalf of a number of companies or businesses. If you have asked a sales agent to leave, the same agent can visit you again about goods or services they are selling for another business.

TIP: If you do not want any door to door sales agents approaching you at home, place a prominent sign stating this near your door. Order or download a 'Do Not Knock' sticker and other materials at www.accc.gov.au/doortodoor

The sales agent must show identification

Before making a sales pitch, a sales agent must clearly inform you why they are there and provide identification. The identification must include the sales agent's name and the contact details of the business they represent.

The agreement document must be clear and complete

If you are interested in buying goods or services from a door to door sales agent, any agreement must:

- be written in clear and plain language that is easily understood
- include all terms in full
- include the total cost to you (including GST if applicable), or how this will be calculated if the total cost is unknown at the time of making the agreement
- include any postal or delivery charges you will have to pay
- contain the sales agent's name and contact details
- include the seller's contact details (their physical business address, email and fax number) and Australian Business Number or Australian Company Number
- be signed by you and the sales agent
- be clearly written or printed, although any changes may be hand written and signed
- contain information about your rights to cancel the agreement including a notice on the front page
- come with a form of notice that you can use to cancel the agreement.

Important information on the front page of the agreement

The front page of the sales agreement must include a prominent notice that tells you about your right to cancel the agreement within a specific time period (or to 'cool off').

REMEMBER: Your signature is valuable—do not sign a document without reading it in full first. You do not have to agree to anything on the spot.



5. Changing your mind and ‘cooling off’

If you agree to buy from a door to door sales agent under an unsolicited consumer agreement, you have 10 business days to change your mind. This is called a ‘cooling off’ period and the sales agent must tell you about it before you sign.

If, during this time, you decide the offer is not right for you (for *any* reason), even though you have signed a contract, you can still cancel the agreement without any penalty.

Length of the cooling off period

The cooling off period is 10 business days starting at the beginning of the first business day after the day on which you signed the agreement.

The cooling off period can be extended to three months if the sales agent:

- approached you outside the permitted hours
- did not disclose the purpose of their visit or their identity
- did not leave when you asked.

The cooling off period can be extended to six months if the sales agent:

- did not tell you about the cooling off period
- did not give you a copy of the agreement
- provided services within the cooling off period or provided goods that cost over \$500 within the cooling off period.

Example

A sales agent approaches a consumer at their home promoting the bundled supply of gas and electricity at a special price that is cheaper than the consumer’s current supply arrangements. The consumer agrees to ‘switch’ energy providers.

The sales agent visited the consumer during permitted hours and told them the purpose of his visit but he did not mention the 10 business day cooling off period. Because he failed to mention this, the consumer has the right to cool off and cancel the agreement for an extended period of six months.

Associated agreements are also cancelled if you cool off

If you choose to cancel an agreement during the cooling off period, any related contracts or agreements are also void.

Example

A consumer is approached by a door to door salesperson and agrees to buy a washing machine for \$900. As part of the sale, there is an associated agreement to service the washing machine.

If the consumer decides to exercise their cooling off rights and cancel the contract to buy the washing machine, the related service contract is also cancelled.

How to exercise your cooling off rights

You can cancel an agreement verbally or in writing. If you cancel with a written notice, you can do so by emailing, faxing, posting or personally delivering the notice to the seller.

Cancellation of the agreement is effective from the date on which you provide the notice. The notice does not have to be in any specific form. To make it easier, a cancellation notice template has been included at the end of this guide.

If you send your cancellation notice by post, it is taken to have been given to the seller at the time you posted it. Keep a record of this date and, if possible, any proof of postage.

Receiving goods or services during the cooling off period

The seller can supply goods to you during the cooling off period if they cost \$500 or less. However, they cannot supply you with any goods that cost over \$500.

They also cannot supply you with any services during the cooling off period, with the exception of electricity or gas services. During the cooling off period an energy seller can provide electricity or gas to a household not already connected to these services or where there is already a connection but no supply.

No payment during the cooling off period

A seller cannot request or accept payment from you during the cooling off period.

It is unlawful for the seller to request or accept payment from you for 10 business days starting at the beginning of the first business day after the day you signed the agreement. However, this does not apply to the supply of electricity or gas.

If you have cancelled the agreement and made any payment, the seller must refund your money. You must return any goods that have not been used.

Returning goods after cooling off

If you cancel the agreement during the cooling off period, within a reasonable time you must do one of the following:

- return any goods to the seller
- notify the seller where they may collect the goods. The goods become your property if the seller does not collect them within 30 days of you cancelling the agreement.

Paying compensation

When you cancel an agreement, you will be responsible for paying compensation to the seller for any damage to, or depreciation in the value of the goods. However, you are not responsible for any damage or depreciation due to normal use of the goods or to circumstances beyond your control.

REMEMBER: It's ok to change your mind—if you agree to buy from a door to door sales agent but later decide the offer's not for you, simply exercise your 'cooling off' rights.

6. Other protections and penalties

Pressure and harassment

Many consumers complain that they feel pressured to buy from door to door sales agents. A sales agent cannot use physical force, coerce or harass you when selling goods or services.

Harassment is when a salesperson contacts or communicates with you unnecessarily or excessively to the point where you feel intimidated, tired or demoralised.

Coercion is when a salesperson uses or threatens to use compulsion or force, which restricts your choice or freedom to act.

Example

A door to door sales agent visited consumers in a retirement village complex. The sales agent said that because the management of their complex was changing, their power would be cut off unless they changed energy suppliers. The sales agent said that they would need to change suppliers immediately to maintain their power supply. Almost all of the consumers approached signed up.

The sales agent's statements could be considered coercion.

False or misleading representations and unconscionable conduct

Consumers often complain that they only agreed to buy from a door to door sales agent because they were misled or deceived about the offer.

Some consumers, especially those that may be disadvantaged or vulnerable, may also have been the target of high pressure sales tactics, such as refusing to take 'no' for an answer, that are so extreme that the sale can amount to unconscionable conduct.

The Australian Consumer Law protects consumers from unfair sales tactics that may include pressure, harassment, false and misleading representations or unconscionable conduct.

Example

The ACCC took action against a trader who was selling educational materials to Indigenous communities in the Northern Territory. The Court found that the trader had engaged in unconscionable conduct by taking advantage of the lack of education or commercial experience of the consumers involved.

In this case the trader did not provide the consumers with a copy of a written contract as required. He was also aware that they lived in poverty, there were cultural differences and they lacked experience in business matters. The trader did not advise the consumers of any overpayments made and did not hold the overpayments so that they could be returned.

The Court ordered the trader to pay over \$26 000 in compensation to the eight consumers, banned the trader from doing business in vulnerable communities and placed restrictions on his receipt of automatic payments for goods and services in the future.

ACCC v Keshow [2005] FCA 558

Consumer guarantees

You have the right to expect that what you buy—whether it be at your door, over the phone, in a shop or online—does or performs as it is supposed to. If a problem arises with a product or service, you may be entitled to a repair, replacement or refund.

Waiving your rights

You cannot waive or sign away any of your legal rights explained in this guide and it is unlawful for a seller to persuade (or attempt to persuade) you to do so.

Sellers must ensure that their sales agents are fully aware of all their legal obligations before they come to your door. If they do not, both sellers and the sales agents may be liable for breaking the law.

Penalties

If a sales agent or seller fails to comply with the unsolicited consumer agreement provisions, they may be subject to fines or civil penalties of a maximum of \$50 000 for a body corporate and a maximum of \$10 000 for a non-body corporate.

If a trader engages in the following unfair sales tactics—pressure, harassment, false and misleading representations or unconscionable conduct—they can face a range of court orders and penalties up to \$1.1 million for a body corporate or \$200 000 for an individual.

7. Taking action

If you have decided that you want to cancel a door to door sales agreement, simply exercise your cooling off rights—follow the guidance in chapter 5.

If you experience a problem that breaches any of your consumer rights—for instance, you felt that you were pressured, misled, or what you bought fails to work or perform as it should—there are three steps you can take to try to resolve it.

Step 1 – Contact the seller

Contact the seller as soon as possible to explain the problem and the outcome you want. It is a good idea to formally put your concerns in writing. That way, the seller is clearly aware of the problem and what you want, and you also have a record of your contact with them.

A letter or email of complaint should:

- explain the problem
- explain the outcome you want
- outline the steps you will take if you and the seller cannot resolve the problem
- ask for a response within a reasonable time—for example two weeks or 10 business days.

Make sure you keep copies of any letters, emails or documents that you send. The seller may ask you to provide some evidence that you entered into a door to door sales agreement with them for goods or services. This may be a copy of the agreement, a bill, a receipt or a customer account number.

Step 2—Contact the ACCC or another third party

If you believe your rights have been breached by a sales agent or seller and you are either having difficulty resolving a complaint or are not sure what to do next, you may want to seek assistance. The best place to go will depend on your circumstances.

When the ACCC can help

The ACCC can give you information about your consumer rights and obligations, and suggest possible courses of action you can take. In some cases it may also be able to investigate and take action when a seller or sales agent fails to meet obligations under the Australian Consumer Law. These decisions are made in line with the ACCC's Compliance and Enforcement Policy (available at www.accc.gov.au).

State and territory consumer protection agencies

If you cannot negotiate a satisfactory outcome with the seller, you can contact the consumer protection agency in your state or territory. They can provide you with information about your rights and options. They may also be able to conciliate (negotiate) between you and the seller to reach a resolution.

Industry ombudsmen and dispute resolution schemes

Some industries including the energy, water and telecommunications industries provide free complaints services through an ombudsman or an independent dispute resolution scheme.

See chapter 8 of this guide for a list of contact details.

Step 3—Take legal action

Consider getting independent legal advice about what options are available that suit your circumstances.

Small claims courts and tribunals

You may be entitled to take your complaint to the small claims court or tribunal in your state or territory.

Private legal action

For disputes involving large sums of money, you may be able to take private legal action. Make sure that you get legal advice and information from the relevant court or tribunal first, as legal action can be expensive and there is no guarantee that you will be successful.

8. Contacts

The Australian Competition and Consumer Commission

ACCC Infocentre: 1300 302 502

ACCC Indigenous Infoline: 1300 303 143

www.accc.gov.au

Translating and Interpreting Service for information in languages other than English: 13 1450

TTY users: 133 677

Speak and Listen users: 1300 555 727

Internet relay users: National Relay Service www.relayservice.com.au

State and territory consumer protection agencies

Australian Capital Territory

Office of Regulatory Services

Ph: (02) 6207 3000

www.ors.act.gov.au

New South Wales

NSW Fair Trading

Ph: 13 3220

www.fairtrading.nsw.gov.au

Northern Territory

Consumer Affairs

Ph: 1800 019 319

www.consumeraffairs.nt.gov.au

Queensland

Office of Fair Trading

Ph: 13 7468

www.fairtrading.qld.gov.au

South Australia

Consumer and Business Services

Ph: 13 1882

www.ocba.sa.gov.au

Tasmania

Consumer Affairs and Fair Trading

Ph: 1300 654 499

www.consumer.tas.gov.au

Victoria

Consumer Affairs Victoria

Ph: 1300 558 181

www.consumer.vic.gov.au

Western Australia

Department of Commerce

Ph: 1300 304 054

www.commerce.wa.gov.au

9. Sample cancellation notice

sourced from www.consumerlaw.gov.au



Section 82 Australian Consumer Law

Cancellation notice – Unsolicited consumer agreement

Right to cancel this agreement within 10 business day cooling-off period

You have a right to cancel this agreement without any reason within 10 business days from and including the day after you signed or received this agreement.

Extended right to cancel this agreement

If the supplier has not complied with the law in relation to unsolicited consumer agreements, you also have a right to cancel this agreement by contacting the supplier, either orally or in writing.

Refer to the information attached to this agreement. You may have up to 6 months to cancel this agreement in certain circumstances.

To cancel this agreement in writing, complete this notice and **send it to the supplier.** Alternatively, write a letter or send an email to the supplier.

Supplier details (to be completed by the supplier)

Name:

Address:

Email address (if any):

Fax number (if any):

Details of goods or services supplied under the agreement:

Cost of goods or services:

Date of agreement:

Transaction number (if any):

Consumer details

Name of consumer:

Consumer's address:

I WISH TO CANCEL THIS AGREEMENT

Signed by the consumer:

Date:

Note: You must either return to the supplier any goods supplied under the agreement or arrange for the goods to be collected.

10. ‘Know Your Rights’ checklist

Before you agree to buy something from a door to door sales agent, follow these 10 tips to make savvy choices in what you buy and how to uphold your consumer rights.

‘Know your rights when a sales agent knocks’ checklist

-
- | | |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------|
| 1. Are you feeling pressured to accept an offer from a sales agent at your door? Assert your rights—tell them ‘no!’ and they must leave immediately. You don’t have to sign or agree to anything on the spot. | <input checked="" type="checkbox"/> |
| 2. Have you shopped around and compared prices? Make sure you’re getting the best deal—see what other offers are out there. | <input checked="" type="checkbox"/> |
| 3. Did you know that for some products or services, the Government has developed tools or rules to help you compare? The Energy Made Easy website (www.energymadeeasy.com.au) can help consumers in participating states or territories easily compare energy offers. Telecommunications service providers also have to provide you with certain information that will help you compare services. | <input checked="" type="checkbox"/> |
| 4. Before you sign up to anything, ask yourself: does the offer meet your needs? For instance if you’re renting, a fixed term energy contract might not work for you. | <input checked="" type="checkbox"/> |
| 5. Are you thinking of switching providers for energy or telecommunications services? Contact your current provider to check if you’re signed up for a set amount of time and if any cancellation costs will apply. Make sure the offer you’re considering is still the best deal after you’ve factored in exit fees. | <input checked="" type="checkbox"/> |
| 6. If you have switched service providers, did you cancel your current contract? Double check the last and first bills at the time of switching to make sure you’ve only been charged once for the same billing period. | <input checked="" type="checkbox"/> |
| 7. Are you having second thoughts about a purchase made at your door? It’s ok to change your mind! Exercise your ‘cooling off’ rights and cancel the agreement within 10 business days. | <input checked="" type="checkbox"/> |
| 8. Did you know that you can still shop around even after signing a door to door sales agreement? Take advantage of the ‘cooling off’ period to make sure that this is the best deal for you. | <input checked="" type="checkbox"/> |
| 9. If you decide to cancel a door to door sales purchase during the ‘cooling off’ period, keep a record of when you made the phone call or sent the notice. | <input checked="" type="checkbox"/> |
| 10. Want to learn more about becoming a savvy shopper? Find out about your consumer rights at www.accc.gov.au/forconsumers | <input checked="" type="checkbox"/> |
-

Don’t want a sales agent knocking at your door? Place a prominent sign that states this near your entrance. Order or download a ‘Do Not Knock’ sticker and other materials at www.accc.gov.au/doortodoor



www.accc.gov.au