

# Competition and Consumer Law Compliance Policy

## Section 1 - Background and Purpose

### Preamble

(1) La Trobe University is committed to compliance with the [Competition and Consumer Act 2010](#) (“the Act”) (formerly the Trade Practices Act), which includes the relevant consumer protection and unfair business practice provisions of Act that are contained in part of the Act known as the Australian Consumer Law (“ACL”) and all other relevant laws. The Competition and Consumer Law Policy has been established by Council to develop a culture of compliance within the University, in particular to create and put into action a Competition and Consumer Law Compliance Plan and Procedures for the University and to apply the principles and intent of the Act to all University activities and management.

### General

(2) The Act is designed to promote competition throughout Australia and to ensure that all companies and other entities, including the University, compete freely and fairly. The Act also protects consumers from unfair practices, such as being deceived, misled or bullied.

(3) The Act applies to the University and its dealings with suppliers, research partners, students, users of University services and premises, and other relevant people. Compliance with the Act is an important responsibility of all University executives and employees – all staff are responsible for their own actions. The University, as well as its executives and employees who are involved in a breach of the Act, may be individually liable for substantial penalties, as well as compensation claims. Breach of the Act can also result in damage to reputation and adverse publicity for all involved.

(4) Everyone who engages in trade or commerce in Victoria is also subject to the provisions of the Victorian [Australian Consumer Law and Fair Trading Act 2012](#) (ACLFTA). The ACLFTA also promotes fair trading and consumer protection at a state level.

## Section 2 - Scope

(5) Applies to:

- a. All campuses;
- b. All programs and courses and organisational areas;
- c. All staff.

## Section 3 - Policy Statement

(6) La Trobe University is committed to compliance with the [Competition and Consumer Act 2010](#) ("the Act") (formerly the Trade Practices Act), which includes the relevant consumer protection and unfair business practice provisions of the Act that are contained in part of the Act known as the Australian Consumer Law ("ACL") and all other relevant laws. The University will manage, monitor and review Competition and Consumer Law compliance in accordance with the following Procedures. The Procedures sets out the details of the University's Competition and Consumer Law Compliance Plan (accessible via the [Competition and Consumer Law Website](#)), which include reviewing areas of risk, education and training, monitoring, complaints handling, reporting requirements and plans for ongoing review.

## Section 4 - Procedures

### Key prohibitions in the Act for Universities

#### Prohibitions on Anti-competitive Conduct

(7) The Act prohibits a range of anti-competitive conduct covering the University's dealings with its competitors, suppliers, students, research partners, and other persons:

- a. The University must not reach an agreement, arrangement or understanding with any of its competitors to fix or control prices. E.g. reaching an agreement with another university about the fees charged for certain courses;
- b. The University must not reach an agreement, arrangement or understanding with any of its competitors to share or allocate markets, rig bids or tenders, or boycott customers, suppliers or other competitors. E.g. reaching an agreement with another university about the courses to be provided by each in a particular region;
- c. Where the University supplies goods or services to a reseller, it must not specify a minimum or a particular resale price. E.g. specifying a minimum resale price to book sellers for a university publication;
- d. The University must not make it a condition of supplying any goods or services (or a condition of providing a discount) that the customer also acquire goods or services from a third person. E.g. offering a discount on the hire of a university venue if the hirer separately acquires the catering from a nominated third party;
- e. The University must not impose restrictions on the ability of a supplier or 'customer' to deal with others where that restriction would have the purpose or effect of substantially lessening competition. E.g. prohibiting a supplier of unique educational software to the University from supplying any other universities could raise issues;
- f. If the University has a substantial degree of market power in any market, it must not take advantage of that power for an anti-competitive purpose;
- g. If the University has a substantial market share in any market, it must not supply its goods or services below cost for an anti-competitive purpose.

#### Prohibitions on Unfair Practices

(8) The Act and the ACLFTA prohibit a range of unfair practices covering the University's dealings with suppliers, students and research partners, as well as the general public. In particular:

- a. The University must not make misleading or deceptive representations and or otherwise engaging in misleading or deceptive conduct;
- b. The University must not engage in unconscionable conduct - this particularly applies to dealings with any persons who are disadvantaged or in a significantly weaker bargaining position.

(9) See the Competition and Consumer Law Compliance Guide (accessible via the [Competition and Consumer Law Website](#)) for further information about the prohibitions on anti-competitive conduct and unfair practices.

### **Appointment of a Compliance Officer**

(10) University Council will appoint a member of the Senior Executive Group to be the Compliance Officer. The role of the Compliance Officer will include:

- a. Receiving and investigating complaints;
- b. Being the University's nominated contact in dealings with the [Australian Competition and Consumer Commission](#) and Consumer and Business Affairs Victoria;
- c. Reporting to Council on Competition and Consumer Law issues.

### **Development of a Compliance Plan**

(11) The Compliance Officer will be responsible for organising the development of a trade practices compliance plan. The compliance plan will include the following:

- a. Competition and Consumer Law Compliance guide/manual with examples and FAQs;
- b. analysis and ongoing review of the University's practices and procedures to ensure that they comply with the Compliance Policy, current legislation and best practice;
- c. educating University management and staff of their responsibilities under this Policy, the Act, the ACL and related legislation such as the [Australian Consumer Law and Fair Trading Act 2012](#);
- d. ensuring the University has adequate record-keeping and complaints-handling procedures; monitoring the number and type of complaints made to the University;
- e. reporting to University Council on Competition and Consumer Law issues.

### **Reporting Non-compliance**

(12) All University staff are required to report any Competition and Consumer Law compliance issues and concerns to the Compliance Officer.

### **Disciplinary Action**

(13) Internal disciplinary action will be taken against any staff member who is knowingly or recklessly involved in a contravention of the Act, the ACL or other relevant fair trading laws.

## **Section 5 - Definitions**

(14) Nil.

## Status and Details

<b>Status</b>	Current
<b>Effective Date</b>	19th October 2016
<b>Review Date</b>	28th August 2020
<b>Approval Authority</b>	University Council
<b>Approval Date</b>	19th October 2016
<b>Expiry Date</b>	Not Applicable
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