

Carbon Alert

Things you cannot say about the carbon tax

August 2012

As a result of enforcement action taken by the Australian Competition and Consumer Commission (**ACCC**) businesses now have some clear examples of carbon price statements that the ACCC considers misleading or deceptive or likely to mislead or deceive.

"we are doing an RRP review at present which is projected to be in line with CPI, but take the opportunity to make some moves in June and July, let the carbon tax take the blame, after all your costs will be going up due to it" (Retail Food Group (Brumbys)).

electricity prices will increase by 20% due to the introduction of the carbon price alone and if this continues by 2019 electricity prices will increase by over 400% (Polaris Solar and ACT Renewable Energy).

"As you would be aware the Labour Government has introduced the Carbon Tax effective 1 July 2012, this will affect us all in many different ways... Before the Carbon Tax the price of R404A Refrigerant Gas was \$98 per Kg (plus GST). After the Carbon Tax the price of the same R404A Gas is \$394 per Kg (plus GST)." (Equipserve).

by taking up a RATE FREEZE offer members can avoid a fee increase of 9 – 15 per cent due to the carbon price (GFC Berwick).

These are all representations in relation to the carbon price which the ACCC considers misleading.

One month on from the commencement of the carbon price, the ACCC has taken steps to ensure businesses do not engage in misleading or deceptive conduct in relation to the carbon price including:

- carbon price hotline and web form;
- the issue of educative or warning letters;
- obtaining court enforceable undertakings; and
- most recently, an enforcement notice.

Undertakings

The ACCC has obtained undertakings from Polaris Solar Pty Ltd (**Polaris Solar**), ACT Renewable Energy Pty Ltd (**ACT Renewable Energy**) and Retail Food Group (master franchisor of Brumbys's).

On 25 July 2012, the ACCC accepted an undertaking from Equipserve Solutions Pty Ltd, a refrigeration contractor for misleading carbon price claims.

Infringement Notice

On 1 August 2012, GFC Berwick Pty Ltd trading as Genesis Fitness Club paid an infringement notice in the amount of \$6,600 in relation to carbon price claims made about the cost of gym membership fees. This is the first infringement notice in relation to carbon price claims.

Volume of Complaints

On the first day of the carbon price, 1 July 2012 the ACCC received over 360 complaints and enquiries about the carbon price.

On 26 July 2012, the ACCC issued an update on the complaint data received from its carbon hotline and web form. The ACCC received just over 1,260 carbon price complaints between 1 July and 24 July 2012.

The ACCC records that the majority of the contacts were about general price increases and not specifically complaints about the carbon price misrepresentation.

The sectors that continue to record the most complaints are energy, landfill, refrigerant and building construction sectors.

Investigations and Compliance

The ACCC has issued around 30 businesses with educative or warning letters, depending upon the circumstances. The ACCC has the capacity to investigate a significant number of complaints at any given time and will proceed to take enforcement action where necessary.

The ACCC will continue to investigate complaints made by consumers and competitors in relation to carbon price claims. Expect to see more reports of businesses providing undertakings and/or paying infringement notices over the coming months.

To protect your business, refer to our [June 2012 Alert](#) in relation to Carbon Price Representations and the ACCC's website at www.accc.gov.au

In addition, the ACCC is running a webinar for small businesses on carbon price claims on 16 August 2012. Small businesses can register at www.accc.gov.au

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