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legal solutions
for life

Breaking News!

Do not rely on a Section 32 Statements prepared prior to October as they must conform to a new format.

Welcome to the spring edition of Legal Insight for 2014.

Flashing Lights

It is quite common for drivers to flash their lights at oncoming vehicles in an attempt to warn their fellow road users of a nearby speed camera. It's so commonplace in fact, that many would consider it customary to do so. This type of warning may have saved you hundreds of dollars and kept you from losing demerit points or maybe it just served as a friendly and much appreciated reminder to slow down and take care on the roads. Maybe you have even been the one behind the wheel, flashing your lights at other drivers to alert them of police presence in the area. But could this type of camaraderie amongst road users be illegal?

If you would like to know our opinion, you can read the full article on our website at <http://hutchinsonlegal.com.au/flashing-lights/>

Words to the Wise

“A good name is more desirable than great riches; to be esteemed is better than silver or gold.”

Proverbs 22:1

Your Consumer Rights

The story is a familiar one to many – you buy a product, it turns out to be defective but when attempting to return the faulty product you are met with dismissive or uncooperative retailers churning out a list of excuses and hiding behind “store policy”. But what exactly can consumers expect from retailers and is a ‘guarantee’ really a guarantee? In the wake of a string of retail giants being fined for misleading consumers about their rights and with the Christmas spending season fast approaching, it is important that Australians educate themselves regarding their consumer rights.

The Australian Competition and Consumer Commission (ACCC) has released several reports in the past year detailing how various retail giants have misled consumers in regards to their rights in relation to warranties and product guarantees. The Federal Court ordered several Harvey Norman franchisees to pay tens of thousands of dollars in penalties for failing to fulfil their obligations under Australian Consumer Law (ACL). According to the ACCC, when faced with consumers attempting to return faulty goods, franchisees made false representations to consumers including, that any issue with a product is between the consumer and the manufacturer and that they would have to pay postage and handling fees to have products shipped for repair. Other franchisees were found to have misled consumers, claiming they had no obligation to provide exchanges or refunds for faulty goods.

Identity Theft

In the age of social media and technology where more and more of our personal and private details are being uploaded online every day and electronic transactions are the norm, how safe is your identity? Identity theft and related crimes are serious concerns in the 21st century.

The Australian Government recently released an informative brochure titled Protecting Your Identity: Ten Simple Steps detailing some steps you can take to ensure the safety of your identity. If you would like a copy, you can pick one up from our Ringwood office today. Read about Electronic Signatures at <http://hutchinsonlegal.com.au/e-signatures/>

Did you know...

If you work in the city, our Melbourne office is ideally positioned to meet your legal needs. For a convenient lunch time appointment or consultation, give us a call.

If you would like to receive an electronic version of Legal Insight, please:

- send an email to office@hutchinsonlegal.com.au
- call Tristan Tottenham of our office on **9870 9870**
- write to us at PO Box 450, Ringwood 3134

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An independent consumer advocacy organisation, CHOICE noted that after sending journalists in to various retail stores across the country, posing as customers, they found that 85% of sales representatives were not aware of their obligations under Australian Consumer Law. In light of such alarming figures, consumers should ensure they understand their rights so as to not be misled by false representations made by suppliers and manufacturers.

ACL is set out in Schedule 2 of the Competition and Consumer Act 2010. ACL creates a set of rights known as consumer guarantees that apply to goods purchased after 1 January 2011 (with a few exceptions). These guarantees include a guarantee that:

- Goods are of acceptable quality
- Goods will be reasonably fit for any disclosed purpose
- Goods will match their descriptions and any sample or demonstration model
- Goods will satisfy any extra promises made about them and all express warranties will be honoured
- The supplier has clear title and that the goods are free from other interests, charges or securities, unless otherwise clearly expressed to the consumer
- The manufacturer will have spare parts available for a reasonable time after purchase

Consumers should also be wary of the following common traps. Retailers cannot display signs or statements that limit or appear to limit consumer rights; this includes 'No Refund' signs. Extended guarantees should only include offers that are above the standard consumer guarantees, because it is a breach of ACL for a supplier to require a consumer to pay for their rights. Consumers should also be aware that suppliers cannot contract out of guarantees. As such, any contract that attempts to do so is likely to be considered 'unfair' and void.

Off-The-Plan Purchases

Off-the-plan or "OTP" purchases generally refer to the purchase of a property before it has been built. This can mean that the property is still in the design and planning stages and construction has not yet begun or is about to begin. Potential purchasers can review the design and building plans but are not able to see or inspect the actual property. OTP purchases typically involve apartment buildings; however, the term can also refer to the purchase of a lot in newly subdivided land.

There are a number of benefits and incentives involved with purchasing a property off-the-plan. These include:

- Reduced stamp duty
- Lower purchase price
- Tax benefits

With the savings and benefits associated with OTP purchases, it is easy to be enticed into signing the contract to purchase. However, there is some uncertainty and risk involved in OTP purchases that you should consider before agreeing to purchase any property. These include:

- Unexpected changes to the plan
- Unsatisfactory finished product
- Long delays

For further information about the benefits and risks of off-the-plan purchases, you can read the full article at <http://hutchinsonlegal.com.au/off-the-plan-purchases/>

Welcome



We would like to welcome our newest team member, Jaclyn Tang, to Hutchinson Legal. Jaclyn graduated from Victoria University in 2009 with a Bachelor of Laws and Bachelor of Arts. She was admitted to practice in 2011 and joins the Hutchinson Legal team concentrating on Conveyancing, Property Law and Family Law.

Save the Date



Next Client FUNction

Thursday evening on 26th February, 2015



Maroondah Bizweek 2014

The 15th annual Maroondah BizWeek is scheduled for 27th-31st October, providing guest speakers and more than 20 training workshops focusing on the benefits of utilising social media for your business. Hutchinson Legal, as a Program Partner of Maroondah BizWeek, is presenting a seminar on Identity Fraud.

Date: 30th October from 2-4pm

Venue: Maroondah City Council Offices, Braeside Avenue, Ringwood

Cost: \$20, bookings essential

Make it a priority to hear our Bernie Curtin speak on Identity Fraud.

For a full program of events and booking details, go to: <http://bizmaroondah.com.au/Content/Pub/ContentDetail.asp?mid=86&lngContentID=846&l=1>



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FastFACTS

1784

The year Benjamin Franklin first proposed Daylight Savings Time

99%

Percentage of motorists passing Victoria's fixed and mobile speed cameras that do not receive a fine

1857

The year of the earliest known reference to 'spring cleaning'

\$209.7b

Total spend by Australian Consumers in the first quarter of 2014

\$74.7m

Total infringements issued by Victorian speed cameras in the first quarter of 2014

Visit us at hutchinsonlegal.com.au

Clients should not act only on the basis of material contained in this newsletter because the contents are of a general nature only and may be liable to misinterpretation in particular circumstances. Changes to legislation can occur quickly. Do not act on any of the contents of this newsletter without first obtaining specific advice from a lawyer.