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## Commercial Law e-alert - Australian Consumer Law

# New warranty and packaging requirements for manufacturers and suppliers

From 1 January 2012 manufacturers and suppliers of goods to consumers will be required to comply with specific requirements if they provide warranties against defects. For example, if you provide a 12 month warranty with your equipment, you will need to update your packaging, terms and conditions and any other documentation that mentions the warranty.

### The Australian Consumer Law

The Australian Consumer Law ("ACL") commenced operation on 1 January 2011, replacing the existing national, State and Territory laws on implied conditions and warranties with a single national system of statutory "consumer guarantees". For example, goods supplied to consumers must be of "acceptable quality".

The consumer guarantees are in addition to any warranties against defects that manufacturers and suppliers choose to provide consumers (sometimes referred to as express or voluntary warranties). The ACL provides that such warranties do not limit or replace any applicable consumer guarantees.

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### Warranty documents

The changes that are scheduled to take effect on the first day of next year will require manufacturers and suppliers to explain the distinction between consumer guarantees and warranties on their warranty documentation.

Under the new requirements, if a supplier or manufacturer provides a warranty against defects to consumers, then the document setting out the warranty (e.g. the packaging or warranty documents inside the packaging) must comply with specific ACL requirements. One of the requirements is that the warranty includes standard wording prescribed by the ACL's Regulations.

### Penalties may apply

If you do not meet these ACL requirements, you may face penalties up to a maximum of \$50,000 for corporations and \$10,000 for individuals. In addition, misleading representations may result in penalties of up to \$1.1 million for corporations and \$220,000 for individuals and damages for any loss the consumer suffers.

### What do you need to do?

If you provide consumers with warranties in relation to your goods, we recommend that you conduct an audit of all packaging, terms and conditions and any other documentation that mention the warranty and seek legal advice.

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