

ComplianceNet

Anti-competitive agreements animation script

Competition and Consumer Law

September 2015

ComplianceNet Pty Ltd is responsible, under license from Gilbert + Tobin Lawyers, for the development and marketing of the ComplianceNet (formerly G+T Online) product suite. Tankstream Systems Pty Ltd, ComplianceNet's holding company, provides production and support for all products. Tankstream Systems Pty Ltd is an Australian owned company.

Competition and Consumer Law

Anti-competitive agreements animation script

Characters

Leon – Narrator

David - Monster Phones, CEO

Cath – Monster Phones, Purchasing Officer

Manager #1 - Monster Phones, Sales Manager

Kim – ACCC Officer

Scene selection 1 – Introduction

Leon

Any agreement, arrangement or understanding between different entities that would have the likely effect of significantly reducing competition in a market is unlawful.

Scene selection 2 - An anti-competitive agreement

Direction

David calls his purchasing officer Cath.

David

I'm reviewing your quarterly purchasing report. I don't see any of those new LookSmart G3 mobiles on this list.

What's going on? You know our customers will go crazy to get their hands on them.

Cath

David, haven't you heard? Ultra Chat bought all available stock for the next 6 months.

David

WHAT? UltraChat bought the total supply?

Cath

Yes. One of LookSmart's Sales Managers said UltraChat threatened not to stock any LookSmart phones if they didn't agree to the deal. I don't think it's a written agreement.

Apparently they put the hard word on LookSmart's MD over lunch last week.

David

Surely this type of agreement has to breach the Competition and Consumer Act?

Cath

It would seem LookSmart didn't have a choice.

David

Without these phones, our business is in real trouble.

Scene selection 3 - What if... David decides to wait and see what happens?

David – Thinks aloud

What should I do?

I'll wait and see how this affects Monster Phones...

Competition and Consumer Law

Anti-competitive agreements animation script

Direction

David-CEO is standing at the front of the room with a chart on the wall behind him that shows Monster Phones' market performance in the negative for the last quarter.

David

I'm sorry to tell you, but Monster Phones was placed in administration this morning.

Manager #1

What do you mean? A few months ago Monster Phones was doing great! How could this happen?

David

With LookSmart supplying their new G3 mobile phones only to UltraChat, we lost our customers.

Manager #1

Why would LookSmart agree to a restrictive deal like that?

David

It seems UltraChat forced their hand by threatening not to purchase from LookSmart anymore. UltraChat is huge, I guess they felt they had to do it.

Manager #1

This should've been reported to the ACCC. Maybe Monster Phones would still be in business.

David

Possibly, but it's over now. We are closing our doors today.

Direction

We go back to David at his desk

David – Thinks Aloud

Doing nothing is not an option!

Scene selection 4 - What if... David reports the agreement to the ACCC?

David – Thinks Aloud

I'll report UltraChat to the ACCC, I'm positive this is an anti-competitive agreement.

Direction

David calls the ACCC.

David

I believe that UltraChat and LookSmart have entered into an agreement. LookSmart is refusing to supply their new phones to us. This will wipe us out!

Kim

If this is true, then both UltraChat and LookSmart may be in breach of the Competition and Consumer Act. What evidence do you have to support your claim?

David

We heard it from a sales manager over at LookSmart.

Apparently UltraChat's Vice President threatened not to stock any LookSmart products unless they agreed to sell UltraChat the entire supply of their new G3 range for the first 6 months.

Competition and Consumer Law

Anti-competitive agreements animation script

I believe it's a "gentleman's agreement" and there isn't anything in writing.

Kim

Restricting supply of this item will affect many smaller resellers and may be anti-competitive. We will investigate this allegation and prosecute if found true.

Scene selection 5 - Conclusion

Direction

Newspaper headline - UltraChat and LookSmart Found Guilty
Federal Court Imposes \$500,000 Fine.
CEOs Sacked

Leon

By restricting supply, UltraChat and LookSmart have significantly reduced competition in their market and have been found guilty of anti-competitive conduct under the Competition and Consumer Act.

It didn't matter that there was no written agreement.

Both companies and the employees who entered into the agreement will have to pay damages and fines. UltraChat and LookSmart's brand and reputations have also suffered.

David, Monster Phones' CEO, was right to contact the ACCC and report the breach of the Competition and Consumer Act.

You should never enter into any agreement that reduces competition in your market without seeking legal advice in advance.