



Complaints Handling Policy

Cotton Seed Distributors Ltd (**CSD**) is the exclusive distributor in Australia of elite, commercial cotton seed varieties. CSD recognises that, from time to time, an individual or organisation including CSD employees, CSD agents, suppliers of goods or services to CSD or those who wish to become suppliers, industry organisation or growers may choose to exercise their right to make a complaint to CSD about CSD's products, business practices or other matters involving CSD and its conduct and/or whether those products, business practices or conduct breaches the law, including the competition and consumer law provisions of the *Competition and Consumer Act 2010* (Cth) (**CCA**).

CSD is committed to receiving and resolving such complaints in a manner which is fair to both the complainant and CSD and maintains CSD's compliance with the law, including the competition and consumer law provisions of the CCA.

To enable CSD to handle these complaints, CSD has developed a complaints handling policy and procedure framework.

The purpose of the complaints handling policy and related procedure is:

- To provide a clear and transparent framework for receiving, handling, escalating, and resolving complaints within CSD about CSD's products, business practices or other matters involving CSD and its conduct and/or whether those products, business practices or conduct breaches the law, including the competition and consumer law provisions of the CCA, in an effective and efficient manner;
- To identify the persons responsible within CSD for overseeing and implementing key aspects of the complaints handling process; and
- To ensure that CSD maintains ongoing compliance with the law, including the competition and consumer law provisions of the CCA and good business practice.

This Policy and related Procedure are based on *AS/NZS 1002:2002 Guidelines for complaint management in organisations* and *Commonwealth Ombudsman: Better Practice Complaint Handling Guide v6* and have been endorsed by the Board of Directors of CSD.

A copy of this Policy and related Procedure will be distributed to all relevant CSD employees, directors and officers at their induction and promoted during ongoing CCA compliance training. The latest version of this Policy can be accessed at <https://csd.net.au/corporate-documents/>.

All queries in relation to this Policy should be directed to:

CSD Compliance Officer

<https://csd.net.au/complaints>

Last reviewed: November 2025.



Complaints Handling Procedure

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1. Key Guiding Principles

Principle 1: "People focus" approach

CSD recognises that everybody has the right to complain and that feedback can be a valuable tool for CSD to continuously learn and improve. CSD therefore welcomes and encourages feedback and complaints from our employees, agents, suppliers of goods or services to CSD or those who wish to become suppliers, industry organisations, growers and the general public about our products, our business, and our conduct.

CSD is committed to resolving any complaints which we receive in a fair, respectful, and timely manner.

CSD will provide all complainants with the opportunity to participate in the complaints' investigation process to the extent reasonably practicable and appropriate.

Principle 2: Protection of complainants

CSD will take reasonable steps to ensure that complainants are not adversely affected because of a complaint made by them or on their behalf.

Principle 3: Accessibility

CSD will ensure that information about our complaints management systems, including how to lodge complaints with or about CSD, is clearly explained and publicly available.

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Principle 4: Responsiveness

CSD will assess and deal with complaints in an efficient manner, in accordance with the urgency of the issues raised.

CSD will actively manage the expectations of complainants by promptly acknowledging receipt of complaints, explaining upfront our procedures for assessing and investigating complaints, and making reasonable efforts to keep complainants updated on the progress of their complaint investigation, to the extent to which it is appropriate.

If we are unable to deal with either part or all of a complaint, we will advise the complainant as soon as reasonably practicable.

Principle 5: Impartiality and fairness

CSD will manage complaints in an impartial and unbiased manner with equal treatment accorded to all complainants and affected CSD staff.

CSD is committed to managing conflicts of interest, whether actual or perceived, in a transparent and responsible manner. Where a complaint relates to a prior action, omission, or decision made by an individual within CSD, we will ensure that the matter is assigned to a different individual for review.

CSD will refrain from taking any action which has the potential to cause significant detrimental impact to the complainant until the matter has been finalised.

Principle 6: Managing unreasonable behaviour by complainants

CSD is committed to being accessible and responsive to all persons who approach us with feedback and complaints.

However, this needs to be balanced against our responsibility:

- To protect and maintain the health, well-being and safety of our directors, officers and staff;
- To allocate our resources in an efficient, fair, and just manner across the complaints we receive; and
- To continue to carry on our business to the best of our abilities.

When complainants behave unreasonably in connection with making a complaint, their conduct can undermine or jeopardise these core responsibilities. This includes situations where complainants exhibit unreasonable persistence in refusing to accept a final decision, make unreasonable demands, display unreasonable lack of cooperation, make unreasonable arguments, or otherwise exhibit unreasonable behaviour. In such circumstances, we will take proactive steps to manage any unreasonable conduct by complainants in line with our internal policies and will support our directors, officers and staff to do the same.

Principle 7: Collaboration and privacy

If we receive a complaint which involves multiple parties (e.g., multiple departments within CSD or multiple organisations which include CSD), we will work collaboratively to ensure that our communications with the complainant are clear and coordinated, as far as possible. This may involve making arrangements to streamline information sharing amongst the relevant parties to facilitate investigation and resolution of the complaint, subject to our privacy and confidentiality obligations.

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Where similar complaints are made by related parties or parties which are known to one another, we will try to channel communications via a single representative of the group, subject to our privacy and confidentiality obligations.

Principle 8: Empowerment of staff

All staff responsible for managing complaints under this Procedure are authorised to make decisions and perform actions to the extent necessary to carry out their relevant role and responsibilities as outlined in Annexure B: Key Responsibilities, including by:

- CEO: Issues related to Senior Management
- Chief Financial Officer: Accounts, HR, Business practices not covered by CSD's Compliance Officer
- CSD Compliance Officer: Issues related to CSD's compliance with the competition and consumer law provisions of the CCA
- General Manager, Growth & Development: Business practices associated with CSD services or frontline staff (such as the Extension Team) and not covered by CSD's Compliance Officer
- Quality, Research & International Manager: Product Performance Enquiries (PPE) (Stage 1c to 1e)
- Extension & Marketing Lead: Product Performance Enquiries (Stage 1a to 1c).
- Extension staff: Product Performance Enquiries (Stage 1a to 1c).

CSD encourages all staff to provide feedback on the effectiveness of our complaint management system so that we can continuously improve our processes.

2. Process for Lodging Complaints

2.1 What is a complaint?

A complaint is an expression of dissatisfaction made to or about an organisation which is related to its products, services, staff or the handling of a complaint, where a response or resolution is explicitly or implicitly expected or legally required.

A key difference between a complaint and feedback is the reasonable expectation of a response by the organisation in response to a complaint. On the other hand, feedback will be taken on board and be investigated and documented, but we will not provide a formal response to the submitter.

If you would like us to provide you with a formal response, please indicate this upfront.

2.2 What can you make a complaint to CSD about?

You can complain to us about any matter relating to our products, our business practices, or our staff, including our cotton seed, varieties/seed treatments or your experiences with one of our staff or agents. This includes complaints about our conduct or business practices in so far as this may, or may be likely to,

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amount to a breach of a law, including a competition and consumer law prohibition in the CCA or good business practice.

A summary of the main competition and consumer law prohibitions potentially relevant to CSD and its business operations and good business practice are set out in **Annexure A**.

2.3 How can you make a complaint to CSD?

Complaints can be made at any time, either in person to one of our employees, or in writing at www.csd.net.au/complaints, or for seed product related concerns through the CSD Agent whom you dealt with when buying seed.

You should include details about the reason for your complaint, what your complaint relates to (e.g., our product, business practices, conduct), the persons and teams within CSD involved, your personal details (unless you are submitting your complaint anonymously), and the outcome you are seeking. You should also include your preferred contact method (e.g., phone number or email address), to assist us in following up on your complaint. Alternatively, if you would prefer to have your complaint managed on your behalf by a third party, please let us know upfront and include the contact details for that third party. We will then direct all communications regarding your complaint to that third party representative.

CSD accepts anonymous complaints and will carry out an investigation of the issues raised provided there is sufficient information available. Complainants who wish to maintain their anonymity will not be required to be actively involved in any subsequent investigations. However, in these circumstances, we will not be able to respond to complainants personally or notify them of the outcome of our review.

CSD will also happily accommodate any complainants who require additional assistance in making a complaint. Accordingly, if you require any assistance in making your complaint (e.g., translation or interpretation services), then please notify us upfront so that we can make sure to take this into account during our complaints handling process.

3. Complaint Management Framework

This Procedure provides for a three level model of complaint management and resolution. Within this model, both the complainant and the relevant CSD representative have the right to escalate the issue at any point during the complaints handling process, subject to the seriousness and urgency of the complaint and the nature of the complainant:

- **Stage 1:** Wherever possible CSD, aims to resolve complaints during the Stage 1 review. Accordingly, all CSD employees responsible for conducting a Stage 1 review will be adequately equipped to respond to complaints, including by being given appropriate authority, training, and supervision.
- **Stage 2:** In some circumstances, it may be appropriate to escalate a complaint to a more senior officer within CSD. This will typically be required in order to conduct a more rigorous assessment of the complaint or to manage risks in relation to complaints which are particularly serious or complex.
- **Stage 3:** Where a complainant is dissatisfied with the outcome of CSD's review of their complaint, they may seek a further review of the decision.

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Further details on the specific procedures involved in each level of complaint management are set out below. The key roles and responsibilities for complaint handling within CSD are set out in **Annexure B**.

Stage 1 – Frontline response

(a) **Receive and acknowledge complaint**

CSD will acknowledge receipt of each complaint within three business days in accordance with the Complaints Handling Procedure or the Product Performance Enquiry Procedure.

(b) **Initial assessment of complaint**

The CEO, CSD Compliance Officer (for competition and consumer law complaints) or the Technical Agronomy Lead (for Product Performance Enquiries) will be responsible for determining upfront how and by whom the complaint will be managed, including whether the complaint should be escalated, having regard to the nature and complexity of the complaint (including the seriousness of the matters alleged) and the nature of the complainant.

It is the responsibility of the CEO, CSD Compliance Officer (for competition and consumer law complaints) or the Technical Agronomy Lead (for Product Performance Enquiries) to ensure the key details of the complaint are recorded in the Complaints Register and, for Product Performance Enquiries, in the PPE Register and to keep these records updated throughout the progress of the investigation up to the final determination of the complaint. All records in connection with a complaint must be retained for a period of at least six years from the date of receipt of the initial complaint.

(c) **Investigate complaint**

The CEO, CSD Compliance Officer (for competition and consumer law complaints) or the Technical Agronomy Lead (for Product Performance Enquiries) will nominate who will be responsible for gathering any further information required to properly investigate and respond to the complaint during the Stage 1 process.

CSD aim to investigate and resolve all complaints within a timely manner. However, any delays in response from the complainant during the investigation process will necessarily affect the estimated timeframes for action set out in this Procedure.

(d) **Determine complaint**

Provided the complaint can be resolved at the Stage 1 level of review and subject to any delays which occur during the investigation process, the nominated staff member will aim to contact the complainant within 15 business days of receipt of the complaint and advise the complainant of:

- The outcome of the complaint (e.g., upheld or dismissed);
- Any action taken, or proposed to be taken, by CSD in response;
- The reasons for the decision;
- The remedy (if any) proposed to be offered to persons affected; and

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- Any options for review that may be available to the complainant.

If, during the investigation, adverse findings are made in respect of a particular individual, CSD's Compliance Officer will consider any applicable privacy obligations under the *Privacy and Personal Information Protection Act 1998* (Cth) (**Privacy Act**) and any applicable exemptions in or made pursuant to the Privacy Act before sharing the findings with the complainant.

(e) **Close complaint**

At the time of closing the complaint, the CEO, CSD Compliance Officer (for competition and consumer law complaints) or the Technical Agronomy Lead (for Product Performance Enquiries) will record the following:

- The steps taken to address the complaint;
- The outcome of the complaint (including whether it was substantiated in whole or in part), and recommendations made to address problems identified and any decisions made on the basis of those recommendations;
- Any outstanding actions to be followed up; and
- Complainant feedback on process.

This ensures that outcomes are properly implemented, monitored, and reported to the CEO, CSD Compliance Officer (for competition and consumer law complaints), senior management and the CSD Board.

3.2 **Stage 2 – Internal escalation**

A complaint **must** be immediately escalated in writing (by email) to the Chief Executive Officer, Dr Ian Taylor, with immediate follow up by an in-person or remote meeting or by phone if:

- The complainant threatens legal action against CSD or the complaint is received from a law firm;
- The complainant is a regulatory authority, e.g., the Australian Competition and Consumer Commission or a State or Territory Fair Trading department; or
- The complainant alleges that CSD has breached the competition or consumer law provisions in the CCA.

Otherwise, a complaint **may** be escalated at the election of the complainant or the nominated CSD representative investigating the complaint at any point during the Stage 1 process, if they form the view following an initial investigation that the matter requires attention from more senior management within CSD or the complainant is not satisfied with the outcome of the Stage 1 review.

Where a complaint is escalated, this must be recorded in the Complaints Register and reported to the CSD Board.

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The six key steps of CSD's Stage 2 (Internal escalation) framework are set out below:



Depending on the nature and complexity of the complaint, it may be appropriate to engage in some, but not all, of the steps provided in this framework.

(a) **Internal assessment**

The CEO, CSD Compliance Officer (for competition and consumer law complaints) or Technical Agronomy Lead (for Product Performance Enquiries) will assess the information provided by the complainant to determine whether and, if so, how the complaint can be dealt with by CSD. Such an assessment may consider issues such as:

- The nature, complexity, seriousness and urgency of the matters alleged;
- The complainant's desired outcome;
- Whether there is any utility in taking the matter further;
- The adequacy of the information provided;
- The options available to address the complainant's concerns; and
- The appropriate level at which the matters alleged or complained about can be addressed by CSD.

(b) **Internally facilitated resolution**

If appropriate, the CEO, CSD Compliance Officer (for competition and consumer law complaints) or the Technical Agronomy Lead (for Product Performance Enquiries) may contact the complainant directly in order to try to negotiate a mutually acceptable resolution.

(c) **Internal investigation**

The CEO, CSD Compliance Officer (for competition and consumer law complaints) or the Technical Agronomy Lead (for Product Performance Enquiries) may undertake further investigations into the matter, particularly if they are likely to raise significant issues for either CSD or the complainant.

(d) **Internal review**

If a decision has already been made in respect of the matter during the Stage 1 review, then the CEO or CSD Compliance Officer (for competition and consumer law complaints) may exercise the right to review the decision. If they form the view that the decision is not adequate or appropriate, then they will have the right to overturn that decision and make a new ruling.

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The CEO, CSD Compliance Officer (for competition and consumer law complaints) or the Technical Agonomy Lead (for Product Performance Enquiries) will contact the complainant within 30 business days of the referral of the complaint to advise the complainant of the outcome of the Stage 2 review and the reasons for the decision.

(e) **Systemic issues management**

If a complaint is escalated to Stage 2, then the CEO, CSD Compliance Officer (for competition and consumer law complaints) or the Strategic Enablement Lead (for Product Performance Enquiries) will be responsible for identifying, reporting and managing any systemic issues in CSD's business or complaints handling process in connection with the complaint.

3.3 **Stage 3 –Final review**

If a complainant is not satisfied with the outcome of a Stage 1 or Stage 2 review, then they may seek a further review of the decision such as by contacting the CSD Chair.

4. **Keeping Records**

4.1 **Analysis and evaluation of complaints**

CSD will ensure that complaints are recorded in a systematic way so that information can be easily retrieved for reporting and analysis.

Regular reports will be run on:

- The number of complaints received;
- The outcome of complaints;
- Issues arising from complaints;
- Systemic issues identified; and
- The number of requests we receive for escalation of complaints from our Stage 1 complaint handling to Stage 2 internal review or Stage 3 review.

Regular analysis of these reports will be undertaken to monitor trends, measure the quality of our customer service and make improvements. These reports will be provided by the delegated investigator/s to the CEO, CSD Compliance Officer (for competition and consumer law complaints) and senior management for review each month and the CSD Compliance Officer will also provide a quarterly report to the Board of CSD on any competition and consumer law complaints.

4.2 **Monitoring of the complaint management system**

CSD will continually monitor our complaint management system to ensure effectiveness in responding to and resolving complaints, and to identify and correct deficiencies in the operation of the system. Monitoring may include the use of internal audits, customer feedback and external audits.

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4.3 **Continuous improvement**

CSD is committed to improving the effectiveness and efficiency of our complaint management system. Accordingly, we will:

- Support the making and appropriate resolution of complaints;
- Implement best practices in complaint handling;
- Regularly review the complaints management system and complaints data; and
- Implement appropriate system changes arising out of our analysis of complaints data and continual monitoring of the system.

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Annexure A – Key competition and consumer law prohibitions of CCA potentially relevant to CSD

Competition Law

By way of the summary, the main competition law prohibitions of the CCA that are potentially relevant to CSD and its business activities together with CSD corporate governance include the following:

<p>Cartel conduct</p>	<p>A cartel exists when businesses agree to act together instead of competing with each other. Cartel conduct is illegal and is strictly prohibited. The laws about cartel conduct in the CCA apply to all corporations in Australia, as well as individuals involved in the conduct. Broadly speaking, cartel conduct is when two or more competitors (or likely competitors) who compete as suppliers of goods or services or purchasers of inputs agree to:</p> <ul style="list-style-type: none"> • fix prices - when competitors agree on pricing instead of competing against each other • market share - when competitors agree to divide a market between themselves so they don't have to compete • control output - when competitors agree to limit the amount or type of goods and services available • rig bids - when suppliers discuss and agree among themselves who should win a tender, and at what price. <p>Cartel activity is prohibited under the CCA. It is prohibited as a civil breach. It is also a criminal offence for individuals and for businesses.</p> <p>Corporations like CSD can face fines and penalties for each criminal cartel offence or civil contravention. Individuals involved in a cartel can face jail for up to 10 years, fines for each criminal cartel offence or penalties for each civil contravention etc.</p>
<p>General anti-competitive conduct</p>	<p>There are also a range of business behaviours that may damage competition, depending on the circumstances. This business behaviour is prohibited under the CCA and can break the law <i>when</i> it has the purpose, effect or likely effect of substantially lessening competition in a market.</p> <p>Specifically, contracts, arrangements, understandings and concerted practices that have the purpose, effect or likely effect of substantially lessening competition in a market are banned under the CCA. This is the case even if the behaviour doesn't meet the stricter definition of cartel conduct.</p> <p>Business behaviour may substantially lessen competition when it interferes with or damages the competitive process in a market in a meaningful way. This is usually by deterring, hindering or preventing competition.</p> <p>Examples of problematic business behaviour:</p> <p>A <i>contract, arrangement or understanding</i> is formed when two or more businesses develop a shared plan of action. Reaching an understanding or making an arrangement doesn't need to be written down. These agreements are often not put down in writing and a "nod and wink" can be enough.</p> <p>When determining whether a contract, arrangement or understanding was formed, a "meeting of minds" is generally required. This can include evidence of:</p>

Misuse of market power

- joint action
- similar pricing structures, or
- communications between the parties to reach an understanding.

A *concerted practice* is a communication or cooperation between two or more businesses. It is not quite a contract, arrangement or understanding, but goes beyond businesses independently responding to market conditions.

A concerted practice often involves the sharing of strategic or commercially sensitive information. The businesses involved may, but won't always, have the same aim or behave in the same way.

CSD is currently the only supplier of cotton seed in Australia and as such has market power in this sense as CSD potentially has more freedom to act without needing to worry how competitors, suppliers or customers will react.

Whilst it is not illegal to have market power, a business must not misuse this power to stop other businesses competing on their merits.

A business with substantial market power is allowed to vigorously - compete with other businesses. For example, it can:

- attract customers through promotional campaigns
- use its skills and resources to develop a better product or service
- drive down its prices with efficiency improvements.

Competitive practices that improve efficiency, innovation, product quality or price competitiveness are unlikely to be a misuse of market power.

However, it is illegal for a business with substantial market power to engage in conduct which has the purpose, effect or likely effect of substantially lessening competition.

Competition is likely to be substantially lessened when, as a result of the behaviour of the business:

- the competitors of the business are restricted from competing effectively
- the business is able to significantly and sustainably increase its prices
- it would be very hard for a new business to set up and start competing.

Competition can also be substantially lessened when two or more businesses engage in conduct that weakens competition.

Examples of illegal conduct: (Note: The CCA doesn't label specific practices as a misuse of market power. However, there are practices that can sometimes be a misuse of market power. Whether any particular example of these practices is a misuse of market power depends on the specific circumstances).

Refusal to deal - Businesses are generally entitled to choose whether they'll supply or deal with another business. This includes competitors. Even if a business has substantial market power, they are not usually obligated to

deal with other businesses. However, in some situations, a business with substantial market power that refuses to deal may contravene the law if it limits the ability of others to compete on their merits.

Restricting access to an essential input - In some situations, a business with substantial market power may prevent or restrict a competitor's access to an essential input. This may breach the law where this conduct has the purpose, effect or likely effect of substantially lessening competition. An "essential input" is a resource that can't be substituted and is essential for the provision of goods and services. Restricting access to an essential input may prevent competitors from competing with a business on their merits.

Tying and bundling - Businesses are generally entitled to supply goods or services as part of a tied or bundled arrangement. "Tying" occurs when a supplier sells one good or service on the condition that the purchaser buys another good or service from the supplier. "Bundling" occurs when a supplier only offers two products as a package or for a lower price if the two products are bought as a package.

Tying and bundling are common commercial arrangements which usually don't harm competition and, in many situations, promote competition by offering consumers a more compelling offer. However, in limited circumstances, tying or bundling by a business with substantial market power may contravene the CCA. This can occur when a business with substantial market power in one market uses a tie or bundle to extend or "leverage" this market power into another market.

Exclusive dealing (incl third line forcing)

A business risks breaching the CCA when it engages in exclusive dealing by restricting how its customers or suppliers do business. Exclusive dealing happens when one business trading with another business puts conditions on the other's freedom to choose:

- who it does business with
- what business it does
- where it does business.

While exclusive dealing is common in legitimate business arrangements, it is illegal when it has the purpose, effect or likely effect of substantially lessening competition. This is more likely when:

- the product or service can't be bought elsewhere
- the business setting the conditions is powerful.

For example, a business tries to stop another business from competing by telling its supplier not to sell a competitor something essential that the competitor can't buy elsewhere. This can have both the purpose and effect of substantially lessening competition.

Examples of exclusive dealing:

- When a supplier refuses to supply or refuses to give a particular price or discount, unless the purchaser agrees:
 - to buy products or services from an unrelated business, known as third line forcing

- to buy all its range of products, even if the customer only wants to buy one, known as full line forcing
 - not to buy or resell products or services from the supplier's competitors
 - not to resell the supplier's products or services in certain areas, or to certain customers.
- When a purchaser places restrictions on a supplier, this is also exclusive dealing. For example, a purchaser refuses to buy from a supplier unless the supplier agrees not to supply the purchaser's competitors.
- Third line forcing occurs when a supplier of goods or services imposes a condition requiring the buyer to also acquire goods or services from a particular, unrelated, third party, or refuses to supply because the buyer will not agree to that condition. The conditional supply may relate to the product itself or to the supply of the product at a particular price or discount.

Resale price maintenance

The CCA prohibits suppliers including CSD from setting minimum prices for the resale of their products or services.

For example, CSD must not:

- set minimum prices in formal policies or agreements
- offer customers a discount if the customer sell at or above a minimum price
- refuse to supply customers that sell below a minimum price
- punish customers for selling below a set price, for example, by taking away a discount or sending a warning.

This behaviour is known as "resale price maintenance".

Resale price maintenance is illegal because it stops resellers competing on price, increasing what end consumers pay.

It is also illegal for resellers to ask suppliers to stop competitors selling below a minimum price.

CSD corporate governance

CSD (as a grouping or "association" of cotton seed growers) must take steps to ensure it is operating in accordance with the CCA. These steps include:

- checking that any membership rules, restrictions, and sanctions:
 - comply with the CCA
 - are transparent, and

- apply equally to all potential members, including supporting reasons for accreditation or qualification requirements
- checking that the rules are not overly restrictive and don't have the effect of limiting competition. This includes making sure the rules do not raise barriers to new entry
- taking great care when providing information about prices or costs to members
- ensuring that members understand they must independently:
 - determine their own prices, and
 - negotiate their own contracts.

Consumer Law

The consumer law prohibitions of the CCA are contained in Schedule 2 of the CCA, the Australian Consumer Law (**ACL**). By way of summary, the main consumer law concepts that are potentially relevant to CSD and its business activities are set out below.

Misleading or Deceptive Conduct

The ACL prohibits persons from engaging in conduct that is misleading, deceptive, or likely to mislead or deceive consumers or businesses. This prohibition applies broadly to all conduct in trade or commerce, including both business-to-consumer and business-to-business dealings.

Misleading conduct can occur through formal materials such as contracts, advertisements, or digital content, or informally through statements made in person or over the phone. In some circumstances, remaining silent can also be misleading where there is a reasonable expectation that information should be disclosed.

Whether conduct is misleading or deceptive depends on the circumstances, including the target audience. The law applies even where there was no intention to mislead or deceive and even if no loss or damage occurs. The test is objective – it asks whether an ordinary or reasonable member of the target audience would likely be misled.

Misleading or deceptive conduct could arise in any part of CSD's operations, including in:

- advertising – whether in industry publications, television, newspaper or magazine advertisements;
- presentations;
- other promotional activities of CSD such as press releases, newsletters, fact-sheets and industry publications;
- financial statements, seed forecasts or other growth/yield projections;
- statements in social media, media releases or publicly available documents;

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- any CSD website or site that is affiliated with CSD;
- what appears or does not appear in CSD agreements;
- statements made by CSD Representatives – e.g. over the telephone to suppliers, agents, growers; and
- what is included or not included on CSD product packaging or instructions.

It is unlawful to engage in conduct that misleads or deceives. Courts can impose injunctions, compensation orders and corrective advertising orders for any contravention.

False or Misleading Statements

In addition to the general prohibition on misleading or deceptive conduct, the ACL specifically makes it unlawful for a person, including a business like CSD, to make false or misleading claims about goods or services. These include false claims about:

- the quality, style, model or history of goods or services;
- price or value of goods or services;
- sponsorship, performance characteristics, accessories, benefits or use of goods or services;
- whether goods are new;
- the need for goods or services; and
- the existence or effect of consumer rights, warranties or remedies.

Any statement that creates a false impression about goods or services can break the law.

Amongst other things, the making of a false or misleading claim may expose CSD to significant pecuniary penalties under the ACL.

Consumer Guarantees

The ACL sets out a series of guarantees that are provided to consumers, The ACL defines “consumer” very broadly. A person is a consumer if they acquire goods or services:

- for \$100,000 or less; or
- of a kind ordinarily acquired for personal, domestic or household use; or
- if the goods are a vehicle or trailer used mainly to transport goods on public roads.

There are two major exceptions to this definition, being where goods are acquired to be resold or to be transformed for use in the production or repair of other goods.

When determining whether the \$100,000 threshold is met, it is the per unit price per good or service that matters – not the total value of a contract or an order. Therefore, the consumer law provisions apply to many goods that

are supplied on a business-to-business basis, as well as on a business-to-consumer basis.

Both suppliers and manufacturers have obligations under the ACL.

A “supplier” is anyone who, in trade or commerce, sells, leases or hires goods or services directly to consumers.

A “manufacturer” includes the actual producer of goods, but also includes anyone who applies their brand to goods, holds themselves out to be the manufacturer or imports goods where the actual manufacturer has no presence in Australia.

For the purposes of the ACL, CSD would be considered both a manufacturer and supplier under certain circumstances.

The consumer guarantee regime means that in relation to goods, consumers are guaranteed that the goods will:

- be of acceptable quality and fit for purpose;
- match their description or any sample;
- come with clear title and the right to undisturbed possession;
- have spare parts and repairs available within a reasonable time; and
- comply with any express warranties given in relation to them.

For services, the consumer guarantees are that the services will be provided with due care and skill, be fit for purpose, and be delivered within a reasonable time.

Not every fault is covered by the consumer guarantees. The guarantees won't apply if the consumer:

- causes the goods to become damaged; or
- uses the goods in an abnormal way; or
- was told about a fault and still chose to buy the goods.

If a consumer guarantee is not met, consumers can generally choose whether to pursue the supplier or the manufacturer for a remedy – depending on which guarantee was not complied with and what remedy the consumer is seeking.

The potential remedy against a supplier will depend on the seriousness of the non-compliance (or failure). Broadly speaking, if the failure is:

- a minor failure that can be remedied, the supplier can choose whether to repair, replace or issue a refund; and
- a major failure, the consumer can choose their preferred remedy against the supplier and may reject the goods and choose between a refund, replacement or compensation for any drop in the value of the goods and may also be entitled to any reasonably foreseeable loss they suffer.

Manufacturers may also be liable for breaches of the consumer guarantees that they give by means of the ACL but their liability is to pay damages where there is any reduction in value in the goods or any reasonably foreseeable loss suffered by the consumer.

Liability cannot be excluded, modified or limited by contract. Any clause that tries to do that will be voided, and any statement to that effect could be considered false or misleading.

Unfair Contract Terms

The unfair contract terms regime in the ACL protects consumers and small businesses from unfair terms in standard form contracts.

The regime applies to:

- standard form consumer contracts – for the supply of goods or services to an individual who acquires the goods or services for personal, domestic or household use or consumption; and
- standard form small business contracts – for the supply of goods or services where at least one party has fewer than 100 employees or annual turnover under \$10 million.

A contract is presumed to be standard form unless proven otherwise. Whether a contract is actually standard form is a question of fact and is based on factors such as:

- whether one party has all or most of the bargaining power;
- whether the contract is designed for repeat use or was prepared before discussions between the parties;
- whether the contract is presented on a “take it or leave it” basis; and
- whether there is a real opportunity for key terms to be negotiated.

A contract may still be standard form even if:

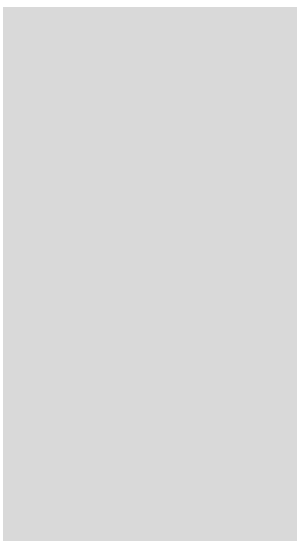
- the counterparty can make minor changes or choose between preset options; or
- a different counterparty successfully negotiated substantial changes in another contract.

CSD’s Grower Agreement, Agency Agreement, Seed Increase Agreement and Trials Agreement are likely to be standard form contracts.

The ACL makes it unlawful to propose, use or rely on an unfair term. A term will be considered unfair if it:

- causes a significant imbalance in parties’ rights and obligations;
- is not reasonably necessary to protect the legitimate interests of the advantaged party; and
- would cause detriment (financial or otherwise) if relied upon.

When assessing the fairness of a term, the contract as a whole must be considered as well as whether the term is transparent.



High-risk terms include:

- unilateral variations (e.g. changing prices or terms without consent);
- one-sided termination rights, especially for breaches without a right to remedy the breach;
- unreasonable fees (e.g for exit or late payment);
- automatic renewals without a simple opt-out; and
- excessive liability exclusions or indemnities.

If a term is found to be unfair, the court can declare the term void and impose civil penalties on individuals and companies, with each unfair term considered a separate contravention of the ACL.

Unconscionable Conduct

Unconscionable conduct in connection with the supply of goods or services is prohibited by the ACL.

Conduct may be unconscionable if it is particularly harsh or oppressive. It is conduct that is more than simply unfair: it typically involves conduct that is against good conscience as judged against the norms of society and may include exploitation or coercion.

Unconscionable conduct applies to all conduct in trade or commerce, covering both business-to-consumer dealings and business-to-business dealings. The prohibition is broad and applies to all aspects of dealings in trade or commerce – such as sales, negotiations, contract terms and enforcement of agreements.

When determining whether conduct is unconscionable, there are various factors that are relevant, including:

- the relative bargaining strengths of the parties;
- whether any conditions were imposed on the weaker party unfairly or that were not reasonably necessary to protect the legitimate interests of the stronger party;
- the use of undue influence, pressure or unfair tactics by the stronger party;
- whether the weaker party could understand the documentation used; and
- the extent to which the parties acted in good faith toward each other.

Unconscionable conduct is judged by community standards of fairness. If a business practice feels harsh, exploitative or unreasonable, it may be unconscionable in breach of the ACL.

Annexure B – Key Responsibilities

The key roles and responsibilities for complaint handling within CSD are as follows.

Chief Executive Officer	<ul style="list-style-type: none"> • Oversee the establishment and implementation of the Complaints Handling Policy and related Procedure and its objectives within CSD • Promote awareness of the Complaints Handling Policy and related Procedure and cultivate a people-focus throughout CSD • Ensure that information about the Complaints Handling Policy and related Procedure is easily accessible to members of the public and is communicated in a manner that is easy to understand • Nominate individual/s responsible for undertaking the investigation process • Ensure that there is a process in place for timely and appropriate notification to senior management of any significant complaints or systemic issues identified through complaints • Ensure that there is a process established for regular reporting to the Board of Directors about complaint management within CSD • Ensure that complaints are managed effectively
CSD Compliance Officer	<ul style="list-style-type: none"> • Establish, develop, promote and enforce a culture of compliance within CSD in relation to competition and consumer law compliance, • Establish a process of performance monitoring, evaluation and reporting of complaints in relation to competition and consumer law matters • Report to the CSD Board on the operation of the complaint management system in relation to CCA complaints every quarter • Report to the Board on competition and consumer law complaints and systemic issues or trends identified in relation to competition and consumer law matters through the receipt of complaints and service problems, with recommendations for improvement where appropriate • Identify and allocate resources needed for an effective and efficient complaint management system in relation to competition and consumer law complaints • Report to staff and other relevant stakeholders about issues of concern identified through the complaint management system in relation to competition and consumer law matters • Implement and maintain the competition and consumer law complaint management system, including: <ul style="list-style-type: none"> ○ Recruitment and training of appropriate staff ○ Implementation of appropriate technology ○ Provision of adequately documented complaint management guidance for all staff ○ Setting and meeting key performance indicators ○ Other needs, including system reviews

	<ul style="list-style-type: none"> • Implement internal and external escalation procedures for unresolved competition and consumer law complaints and disputes
Team Leaders	<ul style="list-style-type: none"> • Ensure that the complaint management system is implemented within the team • Liaise with the CEO or CSD's Compliance Officer from time to time as appropriate regarding complaints to the extent to which they relate to, or affect, the team • Ensure that all team staff are aware of CSD's complaint management system and the benefits of receiving complaints • Ensure that information about the complaint management system, including the policy and procedures, is easily accessible to staff • Ensure that CSD's complaint management system is easily accessible to the public • Report to the CEO or CSD Compliance Officer as appropriate on actions and decisions made by staff relating to complaint management • Ensure that monitoring of the complaint management system is undertaken and recorded • Ensure that complaints are recorded and corrective action is taken to prevent a problem from reoccurring • Ensure that complaint management data is available for review by senior management
All CSD employees	<ul style="list-style-type: none"> • Understand and comply with the Complaints Handling Policy and related Procedure • Identify and effectively resolve complaints at the earliest stage possible and as appropriate • Provide feedback and recommendations to senior management about issues arising from complaints • If directed by senior management, implement changes to address issues arising from complaints