

## **NON-REGISTERED MOTORISED VEHICLES**

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**Date Received:** 28/04/2013



Assistive Technology Suppliers Australasia  
Incorporated (ATSA)

April 2013

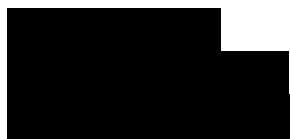
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# Submission to

NSW StaySafe Committee

Inquiry into Non-registered Motor Vehicles

Contact:



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# 1. Summary

ATSA is an industry association that represents the interests of Australian businesses who supply assistive technology (AT) to people with disability and older individuals. Our members have broad knowledge and expertise in the provision and support of powered mobility devices including electric scooters.

Powered mobility scooters are an inherently safe mode of transport for many older Australians and help to maintain a person's independence and ability to engage in society at all levels.

Powered mobility devices (including scooters and wheelchairs) are classified by the Australian Therapeutic Goods Administration (TGA) as Class 1 Medical Devices and are therefore subject to the TGA's regulations. Suppliers of these devices must also comply with the requirements of the Australian Competition and Consumer Commission (ACCC) and the various state/territory departments of fair trading.

The majority of powered mobility devices sold in Australia are imported. This is true for 100% of scooters and approximately 70% of electric wheelchairs. The devices are designed to meet the international market (of which Australia is around 2%) and comply with relevant international standards. Adherence to an accepted international standard eliminates the need for developing local specifications that can restrict choice and competition, and increase costs.

The Australian Road Rules define that someone using a powered mobility device is considered to be a pedestrian if the device cannot exceed 10kmph and weighs no more than 110kgs. These regulations need to be reviewed and clarified to bring them into line with the needs of people with disability and the range of devices now available.

The low risk of injury from powered mobility devices has not justified an extensive program of assessment, licensing and ongoing reassessment. Sourcing powered mobility devices through an authorised, ethical supplier with the help of an independent occupational therapist ensures better safety outcomes for both the intended user and the broader community.

AT suppliers play an important role in selecting and configuring the right device to match the capabilities of the individual and the environments where the device will be used. However suppliers do not have the qualifications necessary to fully assess the capacity of a person to safely drive a device. There is also a conflict of interest if a business that sells powered mobility devices is also charged with formally assessing someone's ability.

The Australian Road Rules form the basis of road regulations implemented by the states and territories. However they are not necessarily implemented uniformly throughout the

various jurisdictions. Inconsistencies in state/territory road rules governing the use of powered mobility devices must be avoided to safeguard the interests of those who rely on them.

List of Recommendations –

- Powered mobility devices that can exceed 10kmph should be able to be legitimately imported into Australia so long as they are speed limited to 10kmph prior to sale.
- The NSW StaySafe Committee recommend that the weight limit specified for powered mobility devices in the Australian Road Rules be increased to 250kg.
- The NSW StaySafe Committee recommend if a powered mobility device complies with a relevant Australian or equivalent international standard then it can be legally imported, sold and used.
- Powered mobility suppliers be encouraged to provide point of sale information on mobility scooter safety (ie ACCC brochure “Help cut mobility scooter accidents”).
- Consumers should be made aware of the increased risks of purchasing a scooter over the internet without any form of assessment, trial and configuration/programming.
- Any additional regulations implemented to improve scooter safety must be consistent between the states and territories.
- Local and state governments include a focus on powered mobility device safety when designing or upgrading public infrastructure.
- The NSW government should include wheeled mobility awareness in its pedestrian and road safety campaigns.
- Government provided point of sale information for powered mobility device users should emphasise the value of purchasing from an authorised ethical supplier with the support of a qualified therapist and recommend routine maintenance of their device.

ATSA’s members appreciate the opportunity to be heard at the NSW StaySafe inquiry and are committed to working with the NSW Government and other stakeholders to ensure safer outcomes for all road users.

## 2. Introduction to ATSA

ATSA was established in August 2000 to represent the interests of businesses who compete in the non-pharmaceutical sectors of the Australian healthcare industry.

Our members manufacture, import, distribute, supply, service and hire a broad range of assistive technology (AT) for people with disability and the elderly such as –

- Manual mobility aids (wheelchairs, walking frames, crutches and rollators)
- Powered mobility aids (electric wheelchairs and scooters)
- Patient lifters
- Electric beds
- Lift up chairs
- Pressure sore prevention cushions and mattresses
- Postural aids
- Respiratory products (home oxygen concentrators, aerosol compressors and nebulisers)
- CPAPs and related sleep products
- Daily living aids
- Accessible vehicle modifications

ATSA member companies range from small, family owned businesses to international corporations. All members agree to abide by the ATSA Industry Code of Practice (refer Appendix A3).

ATSA and its members are also pivotal to the training and education of occupational therapists and others involved in assessing people with disability and specifying AT to address their needs.

ATSA's objectives are –

1. To give suppliers of AT a voice that...
  - Has a positive influence on Government policy via a representative, unified approach
  - Educates Governments and other stakeholders about our industry
  - Promotes a robust, competitive and commercially viable marketplace
2. To improve the quality of AT provision by...
  - Supporting the ongoing training and education of therapists and prescribers
  - Promoting ethical business practices that safeguard the interests of the end user
  - Participating in the development of appropriate and cost effective product standards
3. To develop alliances with all relevant stakeholders to...
  - Drive continued improvement in outcomes for people with disability

- Minimise the total lifetime costs of equipment
- Ensure an open, fair and competitive market

ATSA is a not for profit industry association and is a member of –

- National Disability Services
- National Aids & Equipment Reform Alliance
- Spinal Cord Injuries Australia
- Assistive Technology Community Alliance NSW
- Aids and Equipment Reform Alliance (Victoria)
- NSW Physical Disabilities Council

### 3. Powered Mobility Scooters

The greatest proportion of powered mobility scooter users are in the 70+ age group. This group is over-represented in almost all categories of road deaths and accidents in Australia for the period 2000-2008. As a percentage of the population, all road deaths apart from those using motorbikes and bicycles have a higher representation of people over 70 years of age than is their proportion in the Australian population.

The 70+ group in the 2006 census comprised 9.5% of the population. Total road deaths for this group made up 12.5% of the total, and 25% of all pedestrian deaths in the period 2000-2008. These figures are to be expected, as this age group is typically more frail, with less physical ability and a lower accident recovery rate than the average.

Estimates of the total number of mobility scooter users in Australia vary significantly. An article published in the Daily Telegraph on 8<sup>th</sup> April 2013 stated “*About 231,000 people use mobility scooters nationwide...*”. However, based on market data provided by the major mobility scooter importers, this number is believed to be in the range 110,000-150,000. Based on population statistics, this would suggest that in NSW there are between 35,000 to 48,000 scooter users.

Mobility scooters are inherently safe as a mode of transport:

- The user is seated low to the ground.
- The devices move slowly (a little above walking pace at maximum speed) and speed can be limited by programming to suit the intended user’s capability.
- The controls are specifically designed to be fail-safe and do not need legs or feet to operate.
- In most models, any fault with the mechanics or electronics will shut the scooter down.

- Finger or thumb pressure is required to activate movement in the scooter and whenever this pressure is released the scooter comes to a halt.
- The brakes come on as soon as finger pressure is released.

Those scooters that have been approved for use in Europe must meet stringent European safety and quality standards. The majority of those sold in Australia meet these standards.

There is no specific Australian Standard for mobility scooters and they are generally viewed as coming under the electric wheelchair standard. The Australian Therapeutic Goods Administration (TGA) classify mobility scooters as a Class 1 Medical Device.

Most scooter users choose scooters as their preferred form of transport for one or more of the following reasons -

- They have some kind of disability that prevents long distance walking, especially when carrying a load.
- They have relinquished (either voluntarily or by necessity) their motor vehicle license.
- They want to retain as much independence as possible.
- Taxis are not affordable.
- They cannot afford to maintain their own motor vehicle.

Mobility scooters have become an indispensable form of transport for a large number of people who wish to keep their independence and maintain an active life. They have become a safer, cheaper and greener alternative to the motor vehicle for many ageing Australians.

## 4. AT as an Unregistered Motor Vehicle

The NSW StaySafe Committee's inquiry into unregistered motor vehicles makes specific reference to mobility scooters as an example of an unregistered motor vehicle. Electric wheelchairs are another type of AT which could also be considered in the same light. Regulatory changes that impact powered mobility scooters may also effect users of electric wheelchairs.

The Australian Road Rules consider a user of a powered mobility device (scooter or wheelchair) to be a pedestrian if –

- the device cannot exceed 10kmph on a flat surface and,
- the device weighs no more than 110kg.

There is confusion amongst state, territory and federal jurisdictions over the definition of the 10kmph rule. More than 90% of all powered mobility devices are imported and have



been designed to meet the needs of the global market, of which Australia is less than 2% in terms of AT. Many of these devices can do more than 10kmph but all can be speed limited by programming the device. This programming cannot be performed by a consumer due to the specialised programming tools required. Many importers have their devices limited to 10kmph at point of manufacture. Properly trained and qualified retailers commonly customise the programming of performance parameters such as acceleration, turning speed etc to match the capability of the individual and improve safety.

Prohibiting the importation of devices that are capable of higher speeds would severely restrict choice and flexibility to those Australians who rely on a powered scooter or wheelchair. It would also have a major impact on competition in the market place.

More complex and necessarily heavier powered mobility devices are clinically essential for those individuals who rely on them. Larger mobility scooters are essential in many situations.

- Where there is a need to travel longer distances.
- In areas where the terrain is steep or uneven.
- For users who are very heavy and/or obese.

In addition to the above, there are specific factors that result in powered wheelchairs that are larger and generally heavier.

- Power tilt in space seating.
- Power seat recline.
- Power elevating legrests.
- Power seat elevation.
- Fitting of ventilation trays.

ATSA is working with the AustRoads project that is reviewing the construction requirements for motorised mobility scooters and wheelchairs under the Australian Road Rules. A survey of ATSA members who import and/or manufacture electric wheelchairs detailed the following –

- Major international manufacturers reported that more than 70% of their electric wheelchairs weighed in excess of 150kgs once fitted with appropriate sealed gel batteries.
- Of these 5-8% would exceed 200kgs.
- A local manufacturer reported that >85% of their electric wheelchairs sold weigh more than 110kgs and that *"Many of the chairs we produce would weigh more than 150kgs."*
- The weights reported did not include customised seating (cushions, backrests, headrests, postural supports etc), additional items such as ventilators or other after market accessories.

- The new Draft Australian Standard may also set a minimum range requirement for “Type 3 Classified (outdoor) Wheelchairs” and this will push the weight of these wheelchairs higher again as larger batteries will be required to meet this standard (a set of 73a/h batteries weighs around 46kgs).

An unrealistically low weight limit for powered mobility devices has real impacts on people with disability who rely on them.

- They effectively outlaw the majority of devices that are readily available and used safely in most other countries.
- There is an emerging trend from funding schemes such as EnableNSW, Dept of Veterans Affairs, SWEP (Vic), MASS (Qld) DES (SA) etc to only fund aids and equipment that comply with relevant standards and laws for safe use etc. This could severely limit the range of available options that a person with disability could access and drastically limit choice and competition.
- People with disability will therefore end up using powered mobility devices that are not fit for their individual circumstances and may be unsafe.
- Importers, manufacturers and retailers of devices that exceed the weight limit are potentially at risk for selling the very products that are essential to many people’s daily living activities

This is an issue of concern to other organisations such as ARATA, OT Australia, funding bodies and many other not-for-profit organisations representing the interests of people with disability throughout Australia. Clearly there is a need for a more realistic weight limit to be established that would legitimise the use of clinically essential powered mobility devices. The evidence suggests a limit of 250kgs would be required to achieve this.

#### **RECOMMENDATIONS:**

- Powered mobility devices that can exceed 10kmph should be able to be legitimately imported into Australia so long as they are speed limited to 10kmph prior to sale.
- The NSW StaySafe Committee recommend that the weight limit specified for powered mobility devices in the Australian Road Rules be increased to 250kg.
- The NSW StaySafe Committee recommend if a powered mobility device complies with a relevant Australian or equivalent international standard then it can be legally imported, sold and used.

## **5. Licensing and Registration**

There is no requirement to hold a license to drive a powered mobility device in any Australian state or territory. There is also no formal requirement for someone to establish that they can safely use a mobility scooter. In some instances, independent occupational

therapists are involved in assessing a prospective mobility scooter user and assisting with the selection of type/model.

Even when an occupational therapist is included in the assessment process, there will always be a risk that the scooter user's condition will change over time and their ability to safely control a scooter may diminish. It is generally accepted however that the relatively low risk of injury from mobility scooters does not justify a comprehensive program of assessment, licensing and ongoing reassessment.

Ethical suppliers, such as those who adhere to the ATSA Code of Practice, play an informal role in establishing that a person can safely operate a mobility scooter. However suppliers cannot be responsible for guaranteeing an individual's capacity to operate a scooter any more than a car dealer could test and license a driver. There is a clear conflict of interest in combining the sales process with the responsibility of assessment or licensing.

Suppliers can play an important role in providing consumer information on mobility scooter safety and also guide consumers on how to obtain a proper assessment from an independent occupational therapist. Suppliers also generally provide basic training in mobility scooter use, maintenance etc.

Where mobility scooters are sourced over the internet, there is generally no intervention from either a therapist or a supplier to help determine an individual's ability to manage the device safely. There is also no opportunity to individually program the device or provide hands-on training for a user prior to using the mobility scooter in a public place.

Queensland is the only Australian jurisdiction that has a registration system for powered mobility devices and this includes scooters and electric wheelchairs. The registration is free of charge, non transferable and requires a doctor's letter stating it is being purchased as a medical aid. A major benefit of the registration is the provision of third party insurance for anyone injured by a powered mobility device.

Inconsistent regulations between the states and territories cause confusion and are a source of frustration for users of powered mobility devices. At present if you purchase a device in Queensland that weighs 125kgs you should not use it in NSW or most other jurisdictions. There needs to be one set of regulations governing the use of these devices throughout Australia so that those who rely on the devices are able to use them legally regardless of where they are.

#### **RECOMMENDATIONS:**

- Powered mobility suppliers be encouraged to provide point of sale information on mobility scooter safety (ie ACCC brochure "Help cut mobility scooter accidents").

- Consumers should be made aware of the increased risks of purchasing a scooter over the internet without any form of assessment, trial and configuration/programming.
- Any additional regulations implemented to improve scooter safety must be consistent between the states and territories.

## 6. Improving Powered Mobility Safety

Mobility scooter safety is not simply an outcome of the user's ability and the design and safety features of their device. There are many other factors that have a major impact on someone's capacity to safely use a powered mobility device.

Poor local infrastructure for powered mobility devices can result in a very capable user being put at risk. Poorly maintained or non-existent footpaths force people to use their device on the road. Overly steep or badly designed gutter ramps can challenge the stability of any wheeled mobility device.

There is a lack of awareness in drivers and able-bodied pedestrians of people who rely on wheeled mobility devices, powered or manually operated. Wheelchair and scooter users are regularly bumped into by people walking or running who are not looking where they are going. Where powered mobility devices have to be used on a road they face similar risks to push bike riders.

The wide range of powered mobility devices now available in Australia allows the device to be properly matched to a person's ability and the environment in which it will be used. All modern devices can be programmed in regard to maximum speed, acceleration, turning speed etc so that the device can be individually tailored to suit the intended user. This process is best achieved with the support of an authorised ethical supplier and a qualified independent therapist working with the consumer.

When an individual first starts using a powered mobility device they generally require some initial training for safe use. Being shown how to use the device in a range of environments and terrains is undoubtedly the best way to achieve this. Many suppliers offer this as a standard component of their sales process.

Users of wheeled mobility devices rarely adhere to guidelines for scheduled maintenance and as a rule it is only when their device experiences a problem that it is serviced. A powered mobility device that is poorly maintained can increase the risk to a user of malfunction or effectively being marooned.

**RECOMMENDATIONS:**

- Local and state governments include a focus on powered mobility device safety when designing or upgrading public infrastructure.
- The NSW government should include wheeled mobility awareness in its pedestrian and road safety campaigns.
- Government provided point of sale information for powered mobility device users should emphasise the value of purchasing from an authorised ethical supplier with the support of a qualified therapist and recommend routine maintenance of their device.

# Appendices

- A1 ATSA Member Companies
- A2 ACCC Brochure - Help cut mobility scooter accidents
- A3 ATSA Code of Practice

# Appendix A1 – ATSA Member Companies

Ability In Motion	1800 994-408
Aidacare	(02) 9618-5000
Astec Equipment Services	(03) 5336-3900
Automobility	(03) 9728-5686
Award Healthcare	(03) 9871-8402
Bellevue Medical and Rehab Supplies	(02) 6041-9700
Country Care	(03) 5022-1680
DeJay Medical and Scientific	(02) 9838-8869
Disability Hire Vehicles	(02) 4577-2225
Durable Medical Equipment Ltd	(02) 9674-8904
Dynamic Controls	+64 21 224978
Dynamic Wheelchair Solutions	(03) 9548-8400
E&S Wheelchair Sales	(02) 9607-2233
Endeavour Industries	(03) 9703-2900
Eniax	(02) 9601-6909
FAS Therapeutic Equipment	(03) 9587-6766
Fisher Lane	(03) 9419-2250
Geelong Wheelchair Services	(03) 5244-0844
GMS Rehabilitation	1800 060 919
GTK Rehab	(02) 9620-9177
Healthcare Innovations Australia	(08) 8260-3789
Hills Healthcare	(08) 8154-4105
Home Safety and Comfort	(02) 6581-2400
Independent Home Care Supplies	(02) 4227-4315
Independent Living Solutions	(07) 4728-1200
Invacare Australia	(02) 8839-5333
Keep Moving	(08) 8947-5122
Liberty Healthcare	1300 88-5853
Magic Mobility	(03) 8791-5600
Maroondah Home Healthcare	(03) 9729-5552
Medi-Repair Services	(03) 6334-8844
Medistore	1300 882 194
Medix21 Australia	(02)9970-7342

Megalong Positioning Service	(02) 4759-2800
Mobility Aids Australia	(03) 9546-7700
Mobility Matters	(02) 6280-7244
Mobility Options	(02)9875-5530
Northcott Equipment Solutions	(02) 9890-0186
Northern Rivers Surgical	(02) 6686-6644
Novis Healthcare	1800 738 885
Omni Healthcare	(03) 5333-4006
Otto Bock Australia	(02) 8818-2804
Para Mobility	(02) 9651-4446
Paragon Mobility	1300 65-2382
ParaQuad NSW	(02) 8741-5685
Peak Care Equipment	(02) 4227-4315
Peninsula Home Health Care	(03)9786-7004
Permobil Australia	(02) 8883-4292
Pride Mobility Products Australia	(03) 8770-9660
Problem Management Engineering	(02) 9482-2808
R82 AU	(0419) 74-7445
Scooter World Australia	(08) 8245-5111
Scooters & Mobility Pty	(02) 4962-4007
Scooters Australia	(03) 9799-9077
Seating Dynamics	(02) 9620-7839
Specialised Wheelchair Company	(02) 9905-5333
Statewide Home Health Care	(03)9591-6234
Sunrise Medical	(02) 9899-3144
Total Mobility Solutions	(02) 9520-1866
Victorian Home Health Equipment	(03) 9725-6577
Walk on Wheels Australia (Qld)	(07) 3205-5654
Walk on Wheels Australia (NSW)	(02) 4954-8555
Watercomfort Company	(02) 9531-1699



## Appendix A2 – ACCC Brochure



Australian  
Competition &  
Consumer  
Commission

# Help cut mobility scooter accidents



At least 62 Australians—mostly in their 60s to 90s—have died from mobility scooter collisions or falls.



Hundreds of older people go to hospital each year suffering serious head wounds and injuries to their hips and limbs after losing control of their mobility scooter or falling from the scooter. Many of these accidents happen on roads.

Mobility scooters, gophers or buggies are a great way to get to the shops or around your community if you have physical problems that make it hard for you to walk distances. If you use or are thinking of using a mobility scooter, follow these simple tips to make sure you don't become another injury victim.

Cover photograph by John Jennings





Driving a mobility scooter requires very good sight, strength, coordination, balance and concentration.

## Safety tips

### Ensure a mobility scooter is a safe choice for you

Driving a mobility scooter requires a combination of sight, strength, coordination, balance and concentration. Before buying a mobility scooter, and at regular intervals once you have purchased a mobility scooter, ask your doctor or occupational therapist to check that you can:

- > steer and control the mobility scooter
- > see pedestrians and vehicles
- > judge distances
- > recognise hazards and obstacles in your path
- > keep and shift your balance when travelling over rough terrain or up and down slopes
- > sit for long periods
- > concentrate for long periods and still be able to react quickly to sudden changes such as rough ground or crowds
- > be patient enough to slow down, stop and wait whenever necessary
- > get in and out of the mobility scooter without falling
- > easily get the mobility scooter in and out of its storage place.

If you regularly take medication that makes you drowsy, or if you lack any of the above abilities, a mobility scooter is not a safe option for you. However, your doctor or occupational therapist will be able to suggest other methods or services to help you get around.

## Choose the right mobility scooter for you

### Three or four-wheeled?

Have an assessment done by an occupational therapist to check whether a mobility scooter is right for you and to get advice on the most appropriate type of scooter for your needs.

Three-wheeled scooters are ideal for using indoors because they are light and have a small turning circle. This makes these scooters easier to turn and drive around obstacles. While some sturdier three-wheeled models may be suitable for outdoor use, any scooter can be unsafe when driven carelessly over rough terrain.

Most four-wheeled scooters are suitable for travelling outdoors but have a larger turning circle than three-wheeled scooters. As a result, drivers of four-wheeled scooters need to steer carefully to avoid obstacles. The impact of running into people, or objects can cause you to overbalance, fall or lose control of the scooter. That is why it is wise to avoid using four-wheeled scooters in places where there are crowds or many obstacles.

## Legal requirements

The weight requirement for a mobility scooter varies from 110 kg to 150 kg across Australian states and territories. Check the relevant weight requirement for your state or territory with your road traffic authority.

In all states and territories except Queensland, you do not need to register a mobility scooter. A mobility scooter that is not capable of travelling more than 10 km/h is classed as a pedestrian and should be used on footpaths.

Be careful if you purchase a higher speed device as under the law these may be classed as motor vehicles. Check with your road traffic authority as to whether they are allowed to be legally used and whether there are weight limits or registration requirements.

## Have a test run and get some training

Before you buy a mobility scooter, have a test run to ensure you have the strength, control and confidence to use it. It is not advisable to purchase the product over the internet or by other means without first having the opportunity to take it for a test run. Many suppliers and some local councils provide training so you can feel confident using the scooter in different situations.

You should purchase your mobility scooters from an ethical, authorised supplier who provides pre-sales advice, basic training and after-sales service and support.



Before you buy a mobility scooter, have a test run to ensure you have the strength, control and confidence to use it.

You should also check with your supplier to ensure the mobility scooter you intend to purchase has been properly listed on the Australian Register of Therapeutic Goods.

## Be seen

Make sure other pedestrians and motorists can see you.

- > Attach a reflective safety flag to your scooter that's high enough for motorists and cyclists to see. You can get these from a bike shop.
- > Wear brightly coloured clothes.
- > Display a white light at the front, a red light at the back and reflectors for times when there is less daylight.

## Don't drink and drive

If you have been drinking alcohol, it is safer to travel by taxi or get a lift from a friend. Research shows serious injuries and death have resulted from situations where mobility scooter drivers were under the influence of alcohol.





Plan your trips using routes where you know there are footpaths.

## Wear a safety helmet

Head injuries are a common result of mobility scooter accidents—it is recommended that you always wear a helmet for protection to reduce the risk of a head injury.

## Travel at the right speed

Mobility scooters must not travel at more than 10 km/h.

Be very cautious when travelling in a crowded area or over rough terrain—always travel at the lowest speed possible to avoid accidents.

## Where possible, stick to the footpaths

Under the law, people using mobility scooters are pedestrians and are expected, as far as possible, to stick to the footpaths.

- > Plan your trips using routes where you know there are footpaths.
- > If there are no footpaths in your area, a mobility scooter might not be the safest option for you.

## Only ride on roads as a last resort

Only use roads as a last resort when there are no footpaths.

- > Use quiet streets, not busy main roads.
- > Stick as close as possible to the kerb. Try to face the oncoming traffic, if possible.
- > Ensure you can be seen.
- > Watch out for parked and parking cars and for drivers opening doors.
- > Be patient. Slow down, stop and give way to faster, heavier vehicles—you cannot race a car or truck when you're driving a mobility scooter.

## Only cross roads at pedestrian crossings

Wait for the green light before you cross. If you are at a crossing with flashing lights or a zebra crossing, wait for motorists to stop before you go out on the crossing—you never know when someone hasn't seen you. Even if a motorist or cyclist is in the wrong by not stopping, waiting for them to pass is better than ending up in hospital.

## Watch out for vehicles leaving and entering driveways

Never assume the driver has seen you. Better to slow down, stop and let them pass than to try to get across before they do.

## Adjust your driving to the conditions

Slow down and if necessary stop when you are:

- > near other pedestrians or cyclists
- > travelling up or down ramps or slopes
- > on rough terrain
- > near driveways or in car parks.

To avoid tipping over when travelling up and down ramps or slopes:

- > always drive in as straight a line as possible
- > don't stop or drive on slopes that are too steep for your scooter.





## Keep the load down

To avoid tipping over:

- > don't carry too many parcels
- > don't take passengers—your scooter is only designed to carry one person.

## Make sure you can see

- > Don't load your scooter with parcels that block your view.
- > If you need glasses to see distances, always wear them when driving.

## Tell us your stories

Have you ever had an accident or almost had an accident when travelling in a mobility scooter? To help us pinpoint the most common causes of mobility scooter accidents and address them, we want to hear your stories.

Complete the form opposite, cut along the dotted line, fold and tape edges together. Send reply paid (without a stamp) as addressed.

### [Privacy statement](#)

The Australian Competition and Consumer Commission will use the information you provide to derive statistical information concerning mobility scooter issues. This statistical information may be published but will not enable you to be identified. The Australian Competition and Consumer Commission will only use your personal details to contact you if you have indicated that you wish to volunteer for our research or go on a mailing list. Your personal details will only be disclosed to third parties with your consent or as required by law.

### Mobility scooter stories

Did you have an accident in your mobility scooter?

Yes

No

Did you almost have an accident in your mobility scooter?

Yes

No

Where did the accident or near miss happen?

- ☐ At home
 ☐ On a footpath
 ☐ On a road
 ☐ In a shopping centre
- ☐ On a slope or ramp
 ☐ In a driveway
 ☐ On a pedestrian crossing

Other

Describe what happened

Were you injured?

Yes

No

Did you go to the doctor?

Yes

No

Did you go to the hospital?

Yes

No

### Research and further information

Would you like to volunteer to be interviewed or be in a group discussion about your experience, as part of our research to reduce mobility scooter injuries?

Yes

No

Would you like to go on a mailing list to receive more information about mobility scooter safety?

Yes

No

Please provide your contact details below if you wish to be part of our research or receive further information.

### Contact details

Name

Address

Suburb

State/territory

Postcode

Telephone

Email address

tape here

tape here

fold here

**Delivery Address:**  
GPO Box 3131  
CANBERRA ACT 2601

No stamp required  
if posted in Australia



Product Safety  
Australian Competition & Consumer Commission  
Reply Paid 3131  
CANBERRA ACT 2601

fold here

tape here

tape here



## Contact

For more information about mandatory standards, bans, recalls and emerging issues—and to subscribe to email alerts and RSS—visit our websites:

[www.productsafety.gov.au](http://www.productsafety.gov.au)

[www.recalls.gov.au](http://www.recalls.gov.au)

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Australian Competition and Consumer Commission  
23 Marcus Clarke Street, Canberra, Australian Capital Territory 2601

First published by the ACCC 2010

10 9 8 7 6 5 4 3

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ISBN 978 1 921581 68 7

ACCC 08.10\_42105\_149

## Appendix A3 – ATSA Code of Practice

# **CODE OF PRACTICE**

**for the Australian Healthcare and Assistive  
Technology Products and Services industry**



**atsa**

Assistive Technology Suppliers Australasia Inc

**Revised June 2011**

## **Acknowledgement**

*ATSA would like to thank the following organisations who agreed to review and, where appropriate, make comment on this Code of Practice*

*Carers NSW*

*Department of Veterans Affairs*

*EnableNSW*

*Independent Living Centre NSW*

*Independent Living Centre Victoria*

*Medical Aids Subsidy Scheme (Qld)*

*OT Australia (NSW)*

*OT Australia (Vic)*

*Physical Disability Council of NSW*

*Spinal Cord Injuries Australia*

*The Spastic Centre*

*Victorian Department of Human Services*



**Code of Practice  
for the Australian Healthcare and Assistive  
Technology Products and Services Industry**

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**Code of Practice  
for the Australian Healthcare & Assistive  
Technology Products and Services Industry**

**1. OBJECTIVE**

ATSA's objective is to implement a self regulating Code of Practice that ensures consistent provision of equipment and services to consumers with disabilities and older people, and that safeguards the interests of all stakeholders. Consumers are private individuals buying goods or services other than for business purposes.

In addition to requirements for contracts with such consumers, this Code also covers business to business contracts. They have been included herein because of the nature of the business carried out. Most of the companies signed up to the Code will sell to a mixture of customers including private consumers, businesses and public agencies (such as the Department of Veterans Affairs or State based funding bodies), however the principles involved, particularly in regard to assessment of the users of products and to the need for good after sales support are similar.

This Code does not override and/or substitute conditions contained within individual Government contracts entered into by ATSA members. In the event of any inconsistency between this Code and any applicable Government contracts or legislation, the contract and/or legislation will prevail to the extent of the inconsistency.

The Code will be reviewed regularly with input from external organisations to ensure its effectiveness.

## 2. GENERAL SCOPE AND PURPOSE OF THE CODE

- 2.1. This Code of Practice ("**Code**") governs the behaviour of companies ("**Code Members**") that have registered to abide by the criteria herein. It operates throughout Australia.
- 2.2. In examining a company's behaviour against this Code, only the clauses relevant to that company and its products, the goods that it sells, and its services will be taken into account.
- 2.3. The Code is intended to reflect a philosophy of care and support for customers. Code Members will make themselves aware of pertinent legislation, to ensure they do not offer, stipulate, infer or imply anything in their terms and conditions of contract which provides the customer with less protection than that provided by law, and to ensure that the terms in their consumer contracts comply with all relevant State and Federal consumer protection laws.
- 2.4. An undertaking to abide by this Code is currently restricted to, and mandatory for, members of the Assistive Technology Suppliers Australasia Inc ("**ATSA**"). In considering applications for membership, ATSA takes into account the past history of any directors/partners and will not allow entry by any company where a director, partner or major stakeholder has been involved, within the previous 12 months, in the winding up of a company in such a manner that customers have been disadvantaged. Such companies will therefore be precluded from signing up to this Code at the sole and absolute discretion of ATSA.

## 3. DEFINITIONS/TERMINOLOGY

### • Healthcare Industry

- 3.1. Companies in the healthcare industry, as defined for the purposes of this Code, will be involved in one or more of the following:
  - Supply of assistive technologies, particularly those for older people and/or consumers with a disability
  - Supply of externally applied medical devices, and/or services relating to the fitting of those devices
  - Supply of equipment and related services necessary for medical and health professionals to carry out their various specialist functions
  - Training in the use of assistive technologies
  - Training relating to health and safety, such as the safe and appropriate use of equipment, and manual handling.
- 3.2. For the purpose of clarification, the healthcare industry (in relation to this Code) does not include:
  - Pharmaceuticals
  - Alternative/complimentary medicines or therapies
  - Dentistry
  - GP practice
  - Ophthalmology
  - Implants
  - Critical care

- **Assistive Technology**

3.3. An assistive technology is a product or service that enhances independent living.

- **Company**

3.4. The term “company” includes:

- Limited companies
- Partnerships
- Sole traders
- Franchises
- Wholly-owned subsidiaries
- Other registered businesses
- Trading arms of registered charities (ie, organisations or firms with a commercial, profit-making interest).

- **Customer**

3.5. Customers may be private individuals, businesses, registered charities or authorities/agencies such as the Department of Veterans Affairs (DVA).

- **Code Member**

3.6. Any ATSA member company undertaking to abide by this Code.

- **Code Administrator (ATSA)**

3.7. ATSA is the Administrator of this Code.

#### **4. PRINCIPLES UNDERPINNING THIS CODE**

4.1. All Code Members registered against this Code must adhere to the following principles:

- a) Compliance with all relevant legislation relating to advertising and marketing, the sale of goods, relevant Australian Regulations, consumer rights, disability rights, data protection and the general protections available to all consumers under the Australian Consumer Law.
- b) They will make themselves aware of pertinent legislation (as described in Appendix B) to ensure they do not offer, stipulate, infer or imply anything in their terms and conditions of contract, which provides the customer with less protection than that provided by law.
- c) When selling products, they will ensure that these are of satisfactory quality and fit for the purpose specified. Their selling techniques will be ethical and they will deliver high standards of service.
- d) Any representations made by the company and its employees will be honest and truthful, and will not give rise to false expectations. Information, claims and comparisons must be accurate, balanced, fair, objective and unambiguous. They must not mislead either directly, by implication or by omission.
- e) They will act at all times in such a manner as to justify public trust and confidence, to uphold the good standing and reputation of the healthcare industry, to serve the best interests of society, and above all, to safeguard the interests of individual customers. They will respect the confidentiality of information obtained and not disclose such

information without the consent of the customer concerned or a person entitled to act on their behalf, except where such disclosure is required by law. They will be honest and truthful in all their dealings with consumers.

- f) All communications, verbal and written, will be made in plain language.
- g) At all times, the vulnerable nature of the customer will be respected. Vulnerable customers, such as older people and/or people with disabilities, will not be coerced in any way. Code Members should be familiar with the information in the ACCC publications on dealing with disadvantaged or vulnerable consumers.
- h) Customers are to be made aware of the existence of this Code and its availability on the ATSA website.
- i) A copy of this Code will be given to anyone who requests it and, where complaints cannot be resolved directly with the company, complainants will be made aware of their right to arbitration in accordance with this Code.

## **5. ADVERTISING AND MARKETING**

- 5.1. In marketing and promotional activities, in addition to having due regard for current legislation, care must be taken to ensure any gifts related to purchase of a product or service are directly relevant to that purchase and of a nature that cannot be construed as inappropriate or disproportionate.
- 5.2. Advertisements must comply with any relevant code of advertising.
- 5.3. Advertisements must not give misleading indications about price, value or quality, nor about the organisation placing the advertisement, nor about any benefit that may be derived from the product or service offered. The consequence of responding to the advertisement should be clear.

## **6. CONDUCT OF STAFF OF CODE MEMBERS**

- 6.1. Code Members' staff must always clearly identify themselves and when away from the company premises their reason for calling.
- 6.2. Code Members' staff must never purport to have medical training where this is not the case, nor represent that their product is endorsed or accredited by a specific body, authority or group unless such endorsement or accreditation can be evidenced in writing.
- 6.3. Code Members' staff are expected to:
  - a) act at all times in such a manner as to promote public trust and confidence, to uphold and enhance the good standing and reputation of the healthcare industry, to serve the best interests of society and, above all, to safeguard the interests of individual customers.
  - b) be accountable for his/her own working practices and, in the exercise of such accountability, to:
    - b.1. act, at all times in compliance with applicable legislation and in a manner befitting a professional worker in the healthcare industry.
    - b.2. act, at all times, in such a way as to promote and safeguard the well-being and interests of customers.

- c) take every reasonable opportunity to maintain and enhance knowledge and competence within his/her field of work.
- d) work in a collaborative manner with healthcare professionals (such as doctors, consultants, occupational therapists, physiotherapists etc) and recognise and respect the contribution of all within the healthcare team.
- e) take account of the customs, values and spiritual beliefs of customers.
- f) ensure that the customer is fully informed (in this context, this means that the terms and conditions of contract options available and any other pre-contractual and point of sale requirements set out herein have been explained), before seeking his/her consent to a purchase.
- g) ensure that there is no abuse of the privileged relationship that exists with customers or of the privileged access allowed to their property, residence or workplace.
- h) respect the confidentiality of information obtained during the course of his/her work and not disclose such information without the consent of the customer concerned or a person entitled to act on their behalf, except where such disclosure is required by law.
- i) assist colleagues, wherever possible, to develop competence in relation to the needs of their work.
- j) refuse to accept any gift, favour or hospitality that is intended to exert undue influence to obtain preferential consideration

## **7. TRAINING OF STAFF AND ONGOING DEVELOPMENT**

- 7.1. Code Members must make their staff aware of their obligations pursuant to applicable legislation and industry standards (including but not limited to obligations in relation to occupational health and safety, disability discrimination, and consumer rights). Staff must give due regard to infection control issues where relevant.
- 7.2. Code Members must also inform their staff of any regulations to which they must give due regard in the course of their work, including but not limited to building regulations, lifting operations and lifting equipment regulations.
- 7.3. Staff must not work unsupervised until they are considered competent to do so. Registered professionals, such as occupational therapists, physiotherapists, nurses, orthotists and prosthetists are required to receive ongoing training to keep their knowledge up to date and such registration is an indicator of competence. On-going training must be facilitated by Code Members.
- 7.4. Code Members must maintain a record of training for each member of staff.
- 7.5. Where clinical advice and training is to be given by staff members, they must be appropriately qualified.
- 7.6. All staff must be given a copy of this Code and be made aware that the company and its staff are required to adhere to the provisions herein.

## **8. REPRESENTATION AT POINT OF SALE**

- 8.1. Staff must have the appropriate product knowledge to advise and assist customers.
- 8.2. Customers must be informed that a copy of this Code is available on the ATSA website or will be provided free of charge, on request. In addition Code Members will prominently display on the ATSA Code of Practice poster and the ATSA Code logo throughout their business premises.

## **9. PRE-CONTRACTUAL AND POINT OF SALE INFORMATION**

- 9.1. Code Members must not use inappropriate selling tactics, which include but are not limited to the following:
  - high pressure selling tactics
  - unreasonably long stay (for sales in the home)
  - inflated initial price followed by the offer of a discount (often followed by a telephone call to the “manager”)
  - discount on the condition that the consumer agrees to the sale that day
  - withholding price information until the end of the sales discussion/visit
  - alleged limited availability of a product
  - misrepresentation of the product, price or contract.
- 9.2. Potential customers must be made aware, where appropriate, of services offered by the Local Authorities, the Department of Veteran Affairs, major charities and other agencies.
- 9.3. Terms and conditions of contracts must be available in writing, provided to the customer, and must be legible, comprehensive and written in plain language. They must include details of the trader’s name and geographical address and details of any other trader’s name and geographical address on whose behalf the trader is acting. Due regard must be given to relevant consumer protection regulations. Customers with poor eyesight, or who become easily confused, must be encouraged to have a relative, friend or other advisor/carers with them.
- 9.4. Any known limitations of the product/service must be made clear to the customer, and any clear disparity between the goods and/or services for sale and usual consumer expectations must be explained in clear terms.
- 9.5. Any clear disparity between a customer’s stated requirements and the nature of the goods/and or services to be purchased must be pointed out and explained in clear terms.
- 9.6. Where a product will need to be modified in a way that is not achievable with accessories and where additional fabrication outside routine manufacture is required, the customer must be made aware of this, as the product will be customised and any changes to terms and conditions as a result of this must be notified to them.
- 9.7. When requested by the customer, all verbal representations or promises made by the salesperson must be put in writing, either on the contract, or on a separate form.
- 9.8. Pricing information showing the total price must be clear and unambiguous and where requested, provided in writing.

- 9.9. Details of any finance agreement must be explained in such a way that the customer understands how much they will be paying over the full term of the Agreement and what the terms of the contract are. Pre-contract information must be sent/presented on its own, allowing time for the consumer to pause and reflect on affordability and to compare credit, before being presented with the agreement to be signed. Consumers must be encouraged to seek independent legal and financial advice in regard to any finance agreements.
- 9.10. Details of delivery, installation, training, after-sales support, service and warranty must be made available prior to sale.
- 9.11. Delivery and completion dates must be discussed with the customer in advance of ordering/making the purchase and a choice of delivery dates and times should be offered. For mail order and internet orders, normal delivery times should be indicated. Should it become clear these cannot be met, the customer must be informed as soon as practicable, with an honest explanation of the reason for the delay and a new delivery time arranged.
- 9.12. When required, demonstration of the safe use of equipment for its use under the conditions which the purchaser best describes as “normal” for his/her purposes must be offered prior to conclusion of a sale. The consumer must be encouraged to seek appropriate tuition/training from an independent healthcare professional.
- 9.13. In particular, demonstration in the safe use of mobility vehicles (excluding clinically scripted mobility aids – see clause 9.14) must be given at the time of purchase and/or on delivery.
- The demonstration should follow a discussion of needs, wishes, abilities and disabilities to enable selection of the most suitable mobility vehicle and specification for the user and their circumstances. A mobility vehicle must only be sold if the member can realistically expect the user to develop satisfactory control.
- 9.14. Clinically scripted mobility aids should be delivered and demonstrated in conjunction with an appropriately qualified healthcare professional from the prescribing body.

## **10. LINKED GOODS AND SERVICES**

- 10.1. If the product will need servicing regularly, an explanation must be given as to what is entailed, and the likely costs thereof must be outlined. It must be made clear whether maintenance is offered/available, or will have to be obtained elsewhere.
- 10.2. Where appropriate, arrangements for insuring the product should be discussed.
- 10.3. Any optional guarantees/warranties must be explained, including who is offering them and what the benefits are, or leaflets that do this must be provided.
- 10.4. Clear and accurate information on the availability and price of all linked services must be provided in writing.

## **11. INSTRUCTIONS FOR USE/MANUALS**

- 11.1. Any instructions for use or manuals must be written in clear language.



- 11.2. Such instructions/manuals must be made available with all new products, and should, where feasible, be made available with second-hand products. The customer's attention must be drawn to user manuals and they must be informed of the need to read them thoroughly.
- 11.3. Depending on the nature of the product, the instructions/manual should cover all or some of the following (this is not an exhaustive list):
- Product name, description and intended purpose
  - Name of manufacturer and/or supplier
  - Illustration of the product
  - Reference to any variants or accessories
  - General and/or detailed specifications and dimensions
  - General and/or detailed description of construction
  - Explanation of how to use the product safely
  - Any known limitations
  - Description of maintenance requirements including recommended frequency of servicing
  - Cleaning/decontamination instructions
  - Any specific warnings
- 11.4. Product labels must comply with any relevant statutory regulations (eg requirements of the Therapeutic Goods Administration).

## **12. COOLING OFF PERIOD, CANCELLATION RIGHTS AND PROTECTION OF DEPOSITS**

- 12.1. If a Code Member offers a cooling off period other than that required by law, this must be explained to the customer and be clearly defined in the written terms and conditions of contract.
- 12.2. Where cancellation rights apply or are offered, the customer must be informed under what circumstances they may cancel and these instructions must be plainly visible in the paperwork given to the customer.
- 12.3. Any deposit paid must normally be refunded in full within 30 days of the date of cancellation. If a deposit will not be refundable, or will be only part-refundable, this must be made clear when the customer places the order and the reasons for this must be described to them. If the customer cancels the contract properly, full repayment must occur (unless, for example, the goods have been damaged after delivery), and in any circumstance monies withheld must not amount to more than the net costs or net loss of profit incurred by the Code Member.
- 12.4. Where an order cannot be fulfilled and the customer does not wish to accept substitute goods or services, refund must be made speedily and in full. Vouchers/credit note to the equivalent value must not be offered unless the customer agrees this is acceptable.

## **13. AFTER SALES SERVICE PROVISIONS**

- 13.1. Code Members are expected to provide a high standard of after sales service and to ensure a prompt and adequate service and repair policy.

- 13.2. Prompt will normally be taken to mean response and (where appropriate) visit within 3 working days of request, unless otherwise agreed. No customer should be without equipment on which they rely for mobility and/or daily living for more than 7 days. Exceptions may occur, for example, where a customer has customised needs that cannot be met from normal stock held, or where a hospital/clinic appointments system must be followed, however every effort must be made to keep the period the customer is without mobility to a minimum.
- 13.3. Guarantees and warranties must be in writing, and be clear and unambiguous. Distributors and retailers must pass on the individual parts and labour guarantee offered by the manufacturer, and abide by the terms contained in the guarantee during its currency.
- 13.4. There must be no high pressure selling of additional warranties, nor any misrepresentation of their costs, coverage and any benefits they provide.
- 13.5. A minimum 3 month guarantee must be offered in respect of all repair work carried out.
- 13.6. It must be explained to the customer that no claim will be met under guarantee if the product has been abused in any way or damaged by neglect, improper use or failure to maintain in accordance with the manufacturer's recommendations, or has been damaged in an accident. Abnormal wear and tear will also be considered when assessing a guarantee claim.
- 13.7. Maintenance agreements must be clear and unambiguous and the covered duration must be stated.
- 13.8. If a company has a buy-back policy this must be clear and unambiguous, and be outlined to the customer in writing in advance of the sale taking place. Any reason for not buying back the product (eg because it is single-use, or customised) must be stated and the reason made clear.
- 13.9. Customers must be given a clear explanation of the basis for charging for repair work not covered by warranty/guarantee and, where practicable, a written estimate in advance, of the anticipated costs of such work.
- 13.10. When work has been carried out, a schedule of the work (labour, parts, etc) must accompany the invoice, detailing a breakdown of costs.
- 13.11. Adequate stocks of critical parts and components must be maintained to facilitate prompt service.
- 13.12. Customers must be given details of business opening hours, contact telephone numbers and arrangements, if any, for emergencies out of hours.
- 13.13. Care must be exercised in protecting customers' property whilst in the company's possession and companies must not seek any disclaimers to avoid liability for loss or damage. Companies are advised to ensure they are adequately insured to cover such liability, as well as cover against any claims for death, personal injury and damage to property arising out of the demonstration of goods or their use after sale.
- 13.14. If a company is prepared to remove unwanted products, the terms under which they will do so must be made clear when this is requested, particularly in regard to disposal.

**14. SPECIFIC CRITERIA FOR METHODS OF SELLING AND SUPPLY**

- **Sales Conducted in a Customer's Home**

- 14.1. Salespersons and/or assessors must not visit without a mutually agreed appointment first being made. The purpose and intent of any visit must be made clear to the customer.
- 14.2. The customer must be provided with literature describing the products and services available, together with actual price examples or, where exact prices are not possible (eg with a customised product), with indicative price ranges.
- 14.3. Customers must always be encouraged to have a relative, friend or other advisor/carer with them when the salesperson/assessor visits.
- 14.4. Salespersons must not use high pressure selling techniques, such as offering inducements to force a quick decision, or knowingly take advantage of vulnerable customers (examples of what might be high pressure selling tactics are listed in clause 9.1.).
- 14.5. Salespersons must comply with a customer's request that they leave and no assessment or sale should normally last longer than three hours, other than in exceptional circumstances (eg when a health services professional is present and is responsible for leading the assessment).
- 14.6. Where a cooling off period applies, it may be advisable that no work commences to fulfil the contract until after that period has passed.

- **Internet Sales**

- 14.7. Code Members' websites must include appropriate warnings and recommendations encouraging consumers to obtain advice from an independent healthcare professional prior to purchasing products.
- 14.8. Code Members conducting internet sales must provide a customer service contact to provide general product and trading information.
- 14.9. Information must be provided to the customer before they take the decision to buy, as required by any relevant consumer protection legislation.

- **Direct Mail Orders**

- 14.10. Information as to any facility or goods to be purchased on sale or return, and the conditions upon which goods may be returned, must be brought to the attention of customers in writing.
- 14.11. Information must be provided to the customer before they make the decision to buy, as required by any relevant consumer protection legislation.

- **Rental Products**

- 14.12. Where product is rented, the terms and conditions of the rental must be clear and unambiguous, including responsibility for any damage to the product, insurance requirements and, where appropriate, the responsibilities for decontamination/cleaning of the product and packaging for return.

## 15. CLAUSES RELATING TO COMMERCIAL BUSINESS RELATIONSHIPS

- **Sponsorship**

15.1. Where a company sponsors part or all of the salary of a professional employed by any funding body, they must have due regard to the employing body's rules regarding sponsorship. No pressure must be exerted on the sponsored individual to favour the sponsoring company's products over any other. At all times, the products supplied must be that which the professional considers is best suited to the customer's needs.

- **Sub Contractors and Other Third Parties**

15.2. Companies must ensure any sub-contractor, third party, or person carrying out work or representation on the company's behalf is aware of and complies with this Code.

- **Service and Product Support**

15.3. Retailers/distributors who sell into an area of the country where they cannot service/support the product themselves in a prompt and adequate manner, must have in place a third party agreement with a reputable organisation in that area which meets comparable standards or there should be a return to manufacturer provision for the product concerned (ie there should be consistent support for the product/customer, whether the customer is local or geographically distant from the seller).

- **Manufacturers and Sponsors (Persons Responsible for Placing a Product on the Market in Australia)**

15.4. Companies are reminded that they must accept responsibility for the quality, performance and safety of the products they place on the market in Australia and consider whether compliance with relevant safety and testing standards is appropriate. Statements and representations on performance and safety contained in their published literature must comply with any industry or product standards they claim to meet.

15.5. Such companies, where registered to abide by this Code, must be able to evidence to the Code Administrator, on request, that any of their products requiring registration by the Therapeutic Goods Administration have such registration.

15.6. Companies that manufacture and/or import medical devices must ensure spare parts are available for at least five years from date of final manufacture. For all other products, companies must be mindful of their obligation to stock spare parts for a reasonable period of time from date of final manufacture.

15.7. Companies must provide technical training, spare parts lists, and preventative maintenance schedules to anyone requesting them, providing they are satisfied that the enquirer meets any objective criteria they have set for such provision.

- **Adverse Incident Reporting**

15.8. Where a company becomes aware of an incident involving a product that resulted in, or could have resulted in, serious injury or death of a customer, they must report that incident to the appropriate authority (eg Therapeutic Goods Administration).

- **Product Recalls and Safety Warnings**

15.9. Code Members that are manufacturers/sponsors must maintain records sufficient to identify to whom they have sold a product, to ensure it can be traced and recovered in the event of a recall for safety purposes, or given appropriate attention if a safety warning is issued necessitating preventive action.

15.10. Code Members that are not manufacturers/sponsors must maintain records sufficient to support the manufacturer/sponsor in the event of a recall for safety purposes.

15.11. Code Members selling to agencies such as the Department of Veteran Affairs and local authorities must advise them of the need to track products, to ensure this can occur.

- **Selling to Government & Non-government Agencies (e.g. Department of Veteran Affairs, charities etc)**

15.12. Companies must give due respect to any codes, regulations or procedures operated by a Government Agency.

15.13. Companies must be aware of complaints procedures in these organisations, so they can advise customers accordingly should there be a problem.

15.14. No gift, benefit in kind or pecuniary advantage may be offered or given to any Government Agency, Government Agency staff member, members of the health professions or to administrative staff as an inducement to prescribe, supply, administer, recommend or buy any product, subject to the following:

Gifts in the form of promotional aids and prizes, whether related to a particular product or of general utility, may be distributed to members of the health professions and to appropriate administrative staff, provided that the gift or prize is inexpensive (ie valued at less than AUD \$20) and relevant to the practice of their profession or employment.

## **16. COMPLAINTS HANDLING**

- **Code Members**

16.1. All Code Members must have in place a speedy, responsive and customer friendly procedure for the resolution of complaints (ie any expression of dissatisfaction regarding the product and/or service supplied). Code Members are normally expected to resolve complaints within one calendar month.

16.2. Customers wishing to make a complaint must be informed to whom within the company they should address their complaint, what information they are required to provide, and the timescales that will apply to dealing with the complaint. These must include targets for initial acknowledgement of notification of a complaint (with advice regarding procedure to be followed in addressing it), as follows:

- Telephone call indicating there is a problem – within 2 working days
- Letter, fax or email – within 5 working days

Customers must also be informed that should this process fail, they have the right to contact the Code Administrator (ATSA) who will follow the procedure outlined later in this document for conciliation and, if need be, independent arbitration.

Where a complaint is in regard to a matter that is considered criminal in nature, the customer must be advised to contact the police and that ATSA can play no part in its resolution.

- 16.3. Code Members must offer maximum cooperation with consumer advisers or any other intermediary consulted by the consumer, such as Department of Fair Trading etc.
- 16.4. Staff must be advised to be professional, courteous, prompt and fair when dealing with a complainant.

- **Code Administrator (ATSA)**

- 16.5. When ATSA receives notification in writing of a complaint against a Code Member, it will consider whether the company has:
  - complied with this Code; and
  - been guilty of maladministration (including inefficiency or undue delay) in a way that has resulted in the customer losing money or suffering inconvenience.
- 16.6. ATSA will first ensure the customer has attempted to resolve the matter directly with the company concerned.
- 16.7. If this has occurred, then it will:
  - Request to see all the customer's documentation
  - Ask the company to report within 14 calendar days, giving as much evidence as possible
  - Look for evidence of any breaches of this Code
  - Attempt to settle the dispute by agreement between the two parties

At every stage in this process ATSA will endeavour to respond/act within 14 working days. There is no charge to the customer in respect of the complaints investigation and resolution process described below.

- 16.8. In the event that this process does resolve the complaint, the consumer retains the right to pursue alternative courses of action.
- 16.9. ATSA cannot deal with a complaint if the complaint:
  - is against a company that is not a Code Member;
  - is being, or has been dealt with by a court or similar body; or
  - relates to a point in time prior to the company becoming a Code Member.

## **17. SANCTIONS AND DISCIPLINARY ACTIONS**

- 17.1. Where an identified breach of the Code is minor, the Code Administrator will issue a warning and suggest actions, where appropriate, to prevent repetition. All serious, or repeated, breaches of the Code will result in the Code Administrator making a recommendation to the ATSA Committee in regards to termination or suspension of membership to ATSA or expulsion from ATSA.
- 17.2. The nature of the breach will be identified to the Code Member in writing, and they will be given the opportunity of a right of reply. Such right must be exercised within 30 days of the notification.

- 17.3. The Committee's decision may include one or more of the following:
- no further action be taken
  - the Code Member be required to undertake a specified course of remedial action (such as re-training of a particular staff member)
  - the Code Member be issued with a formal warning
  - expulsion of the Code Member from the register of companies signed up to the Code (and hence from ATSA).
- 17.4. Where expulsion occurs, a minimum period of twelve months must pass before any application to re-join the register of companies signed up to the Code (and to re-join ATSA) will be considered. If any complaints against the company have been made to ATSA during that time, such application may be rejected for a further period of time.
- 17.5. From establishing that a serious breach has occurred through to final decision of the ATSA Committee and instigation of any action will take no more than 90 days.

**APPENDIX A – USEFUL CONTACTS (correct as at 1<sup>st</sup> October 2010)*****To check the status/credentials of a health professional:***

- Occupational Therapy Australia – [www.ausot.com.au](http://www.ausot.com.au)
- Australian Physiotherapy Association – [www.physiotherapy.asn.au](http://www.physiotherapy.asn.au)
- Australia Rehab and Assistive Technology Association – [www.arata.org.au](http://www.arata.org.au)

***For product advice and information:***

- Independent Living Centres Australia – [www.ilcaustralia.org.au](http://www.ilcaustralia.org.au)
- Technical Aid to the Disabled – [www.tadaustralia.org.au](http://www.tadaustralia.org.au)

***To source a product:***

- ATSA Members Register – [www.atsa.org.au](http://www.atsa.org.au)

***For assistance relating to consumer rights:***

- Australian Competition and Consumer Commission – [www.accc.gov.au](http://www.accc.gov.au)
- Australian Securities and Investment Commission – [www.asic.gov.au](http://www.asic.gov.au)
- NSW Fair Trading – [www.fairtrading.nsw.gov.au](http://www.fairtrading.nsw.gov.au)
- Consumer Affairs Victoria – [www.consumer.vic.gov.au](http://www.consumer.vic.gov.au)
- Queensland Office of Fair Trading - [www.consumer.qld.gov.au](http://www.consumer.qld.gov.au)
- WA Dept of Commerce, Consumer Protection – [www.docep.wa.gov.au](http://www.docep.wa.gov.au)
- SA Office of Consumer and Business Affairs – [www.ocba.sa.gov.au](http://www.ocba.sa.gov.au)
- Consumer Affairs and Fair Trading Tasmania - [www.consumer.tas.gov.au](http://www.consumer.tas.gov.au)
- ACT Office of Regulatory Services – [www.ors.act.gov.au](http://www.ors.act.gov.au)
- NT Consumer Affairs – [www.nt.gov.au/justice/consaffairs](http://www.nt.gov.au/justice/consaffairs)

***To make an adverse incident report:***

- Therapeutic Goods Administration – [www.tga.gov.au](http://www.tga.gov.au)



**APPENDIX B – PERTINENT LEGISLATION**

The following is not an exhaustive list of all the legislation that might apply to a given circumstance, but is a list of the legislation considered likely to be most pertinent to clauses within this Code.

- *Commonwealth Trade Practices Act 1974*
- *Commonwealth Australian Security and Investments Commission Act 2001*
- *Commonwealth National Consumer Credit Protection Act 2009*
- *Australian Capital Territory Fair Trading Act 1992*
- *NSW Fair Trading Act 1987*
- *Queensland Fair Trading Act 1989*
- *South Australia Fair Trading Act 1987*
- *Tasmanian Fair Trading Act 1990*
- *Victorian Fair Trading Act 1999*
- *Western Australian Consumer Affairs Act 1971*
- *Western Australian Fair Trading Act 1987*

This Code is published by:

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