

Dear Valued Dealer,

It is essential that you remove Intermusic Pty. Ltd. current warranty cards - including any international warranty cards by January 1st, 2012.

As of the January 1st, 2012 there are changes to the Competition and Consumer Regulations which will affect Intermusic Pty. Ltd. and our Dealers. Intermusic Pty. Ltd. are providing the following summary to assist and ensure that all Intermusic Pty. Ltd. Dealers are aware of the changes and their responsibilities as a result of these changes.

Regulation 90.

Reg. 90 of the Competition and Consumer Regulations 2010('CCR') will commence on January 1st, 2012 and will affect:-

- warranties provided by retailers & suppliers to consumers; and
- the way suppliers and retailers (amongst others) are permitted to advise consumers about warranties relating to goods or Supplies.

The Competition and Consumer Act 2010 ('CCA') makes it illegal, on or after January 1st, 2012 for any retailer (amongst others) selling goods up to \$40,000:

- to give a consumer a document that evidences a warranty against defects that does not comply with the requirements of Reg. 90 of CCR;
- to represent directly to the consumer that the goods or Supplies are goods or Supplies to which such a non complying warranty against defects relates.

The use of the word "give" in s.102 (2)(b) indicates that any person in the supply chain of passing on the warranty card who physically provides to a consumer a document which purports to be a warranty against defects will be caught by the provision.

It therefore seems that if a supplier (e.g. Intermusic Pty. Ltd.) has placed a warranty against defects document in a box with a product and on or after January 1st, 2012 a retailer (e.g. Dealer) sells the product to a consumer and the warranty card/document does not comply with reg. 90, the retailer will contravene s.102 (2) (b) of the CCA.

It would even appear that if a salesperson working at a retail outlet, hands a consumer a document which purports to be a warranty against defects and the warranty document does not comply with reg. 90, that salesperson also will have contravened s.102 (2) (b) of the CCA.

As from January 1st, 2012 it will be an offence for a Dealer to represent (orally or in writing) directly to a consumer that a warranty against defects applies to goods (or Supplies) unless the warranty complies with regulation 90.

Regulation 90 Requirements

Reg. 90 establishes the following requirements in relation to all warranty against defects documents.

The document (warranty card) must:

- be transparent - that is, it must be expressed in reasonably plain language, legible and presented clearly;
- concisely state what the person who gives the warranty must do so that the warranty will be honoured and what the consumer must do to be entitled to claim the warranty;
- prominently state the name, business address, phone number and email address (if any) of the person providing the warranty;
- provide the period or periods within which a defect in the goods or Supplies to which the warranty relates, must appear if the consumer is to be entitled to claim the warranty;
- provide a procedure for the consumer to claim the warranty including the address to which a claim may be sent;
- state who will bear the expense of claiming the warranty and if the expense is to be borne by the person who gives the warranty, how the consumer can recoup expenses incurred in making the claim;
- state that the benefits to the consumer given by the warranty are in addition to other rights and remedies of the consumer under a law in relation to the goods or Supplies to which the warranty relates; and
- must include the following text: "Our goods come with guarantees that cannot be excluded under the Australian Consumer Law. You are entitled to a replacement or refund for a major failure and for compensation for any other reasonably foreseeable loss or damage. You are also entitled to have the goods repaired or replaced if the goods fail to be of acceptable quality and the failure does not amount to a major failure."

Staff Training

As Dealer's staff will most likely need guidance as to what to say to consumers it is suggested that Dealers provide training for their staff after seeking appropriate professional advice to avoid contravening the CCA regulations.

Penalty

Each offence against these new requirements is punishable by fines of up to \$50,000 for a company and \$10,000 for individuals. Other remedies such as injunctions and damages may also be ordered for breaches

Note

Intermusic Pty. Ltd. existing Warranty Cards do not comply with the new regulation 90. The Dealer will commit an offence if, on or after 1st January, 2012 the Dealer gives the consumer one of Intermusic Pty. Ltd. current Warranty cards.

New Warranty Cards

Intermusic Pty. Ltd. new warranty cards are currently being produced and will be sent out to you before 1st January, 2012. The new warranty cards must be provided to all purchasers at the point of sale from 1st January 2012. The new warranty cards will be identifiable by the date printed on the card of January 1st, 2012.

Dealer's Point -of -sale material

Dealers should check all point-of-sale material to ensure that it does not make a non compliant representation to any consumer

Professional Advice

The comments above are provided as a guide only and should not be used as a substitute for professional advice. Intermusic Pty. Ltd. recommends all Dealers obtain their own advice

The limited warranties that Intermusic Pty. Ltd. (as per their Warranty Cards) are in addition to the statutory guarantees that the law requires suppliers and retailers to give to consumers. These statutory guarantees cannot be excluded or varied and it is unlawful to try to do so.