

Health series

How competition and consumer laws apply to the health sector



The health series of fact sheets is designed to help health professionals work within competition and consumer laws.

The Commission wants health professionals to better understand how competition and consumer laws apply to them. We have developed this series of fact sheets to provide targeted guidance to health professionals on topics specifically relevant to the health sector.

Whether you are operating as a company, partnership, or sole practitioner, as a registered or an unregistered health professional, competition and consumer laws apply to you in the same way they apply to any other business.

Competition and consumer laws have day-to-day relevance for health professionals, particularly when it comes to things like discussing prices with competitors, arranging rosters, promoting services or offering credit to patients.

As the health sector moves to more integrated models of care, health professionals are increasingly working in collaboration with each other. While these new ways of working can lead to business opportunities, such arrangements may also present risks under competition law, particularly where they involve competitors.

Who should read the health series fact sheets?

Our health series fact sheets are written for all health professionals. They are particularly relevant to those in business or practising on their own account. Health sector managers and employees should also be aware of how competition and consumer laws apply to the sector.



Which competition and consumer laws apply to the health sector?

Health professionals in New Zealand are subject to the same competition and consumer laws that apply to other businesses and individuals. These laws include the Commerce Act, the Fair Trading Act and the Credit Contracts and Consumer Finance Act, all of which the Commerce Commission is responsible for enforcing.

The **Commerce Act** is New Zealand's primary competition law. It prohibits anti-competitive behaviour, such as agreements between competitors to fix prices. It also prohibits mergers and acquisitions that substantially lessen competition.

The **Fair Trading Act** protects consumers and makes competition more effective. It prohibits false and misleading behaviour by businesses. It also specifies when consumers must be given information about certain products and promotes product safety.

The **Credit Contracts and Consumer Finance Act** requires lenders to disclose certain information to consumers when they enter into a credit contract and sets out the rules about interest, payments and fees. It will be relevant to those health professionals who offer deferred payment options to patients.

How do these laws apply to me?

Competition and consumer laws apply to both individuals and businesses. How they apply to you depends on your employment or business situation.

There are many situations where it is important you are aware of competition and consumer laws. For example, you need to understand your obligations under the laws if you are:

- discussing prices with your competitors
- starting, running or ending a roster among competing practitioners
- setting your fees
- entering agreements that could restrict competition
- promoting your services
- offering deferred payment options to patients
- a member of a professional association
- collaborating with competitors
- merging your practice with another practice.

This series of fact sheets covers the laws that the Commerce Commission enforces. However, the health sector is subject to many other legislative requirements, some of which may impose different or additional obligations. These requirements may be found in Acts, Regulations, or Codes, such as the Code of Health and Disability Services Consumers' Rights.

In some cases, behaviour that would otherwise breach the Commerce Act is specifically authorised by other legislation. In these cases, the Commerce Act does not apply.

There are no circumstances where you would be exempt from meeting your obligations under the Fair Trading Act or the Credit Contracts and Consumer Finance Act.

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🔗 You can read more about exemptions in our fact sheet *Exemptions under the Commerce Act* at www.comcom.govt.nz/exemptions-under-the-commerce-act
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This fact sheet provides guidance only. It is not intended to be definitive and should not be used in place of legal advice. You are responsible for staying up to date with legislative changes.

You can subscribe for information updates at www.comcom.govt.nz/subscribe

Contact us with information about possible breaches of the laws we enforce:

Phone: 0800 943 600 **Write:** Contact Centre, PO Box 2351, Wellington 6140 **Email:** contact@comcom.govt.nz

Who are my competitors?

Your competitors are typically those practitioners who:

- work in different practices or partnerships from you
- and
- can offer goods or services that your customers consider substitutes for your own goods or services.



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🔗 You can read more about who your competitors are in our fact sheet *Setting your fees* at www.comcom.govt.nz/health/setting-your-fees
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Want to know more?

🔗 Our health series fact sheets cover a range of topics of particular interest to health professionals: www.comcom.govt.nz/health

🔗 We also have fact sheets for all businesses about their obligations under the Commerce, Fair Trading and Credit Contracts and Consumer Finance Acts: www.comcom.govt.nz

