



Solutions Guide

Launching an eCommerce Store

Online retail is here to stay

Latest retail estimates predict that Australia's online retail sales increased by more than 13.5% in 2016, hitting upwards of \$10 billion. And while the eCommerce boom shows no signs of slowing down, it's important that your business understands the importance of a legal infrastructure behind your website.

Be careful

After spending hours and hours on creating your product and website, the last thing you want is a lawsuit or a knock on the door from the Government. In order to avoid potential legal and commercial disputes, it is absolutely crucial to create legal policies that are relevant to your website. By following these steps you'll go a long way to ensuring that your website is legally compliant and protected. Follow the steps below to ensure your website is legally compliant and protected under Australian law.

NAB Online Retail Sales Index, 2016



Create a Privacy Policy

The most common question we get asked from business owners is whether they need a [Privacy Policy](#) for their website. We tell them it's pretty simple to figure out: If your website gathers any sort of personal data (such as email addresses) then a Privacy Policy is a no-brainer. You are also obligated to do so under the Privacy Act 1988 (Cth). A Privacy Policy is an ideal first step to getting your blog legally compliant, and deals with points such as how personal information is collected, what it is used for and how it is stored and managed.

It's crucial that any website using Google Analytics for web measurement (there's over 10 million out there) has a robust, local Privacy Policy, particularly if you use Google Analytics Advertising Features. By enabling the Advertising Features, you enable Google Analytics to collect data about your website traffic via Google advertising cookies and anonymous identifiers, in addition to data collected through a standard Google Analytics implementation. Google explicitly states in its terms of use that if you've enabled any Google Analytics Display Features then you must notify your visitors of this in your Privacy Policy.

The Privacy Policy must feature in the navigation of your website and be accessible from every page. Its inclusion on your website is a necessary safeguard to a potential breach of the Privacy Act 1988 (Cth), where companies may be liable to fines of up to \$1.8 million.

[OAIC Community Attitudes to Privacy Survey, 2013](#)



Tip

8 in 10 Australian consumers check the security of a website before providing their personal information. Having a Privacy Policy from the get-go will show your readers that you value their privacy.

Create a Website Terms and Conditions of Use

Under Australian Consumer law, you are required to have a [Website Terms and Conditions of Use](#) on your website if you sell goods or services. Website Terms and Conditions of Use are needed for every goods or services website as they explain to consumers their rights when purchasing.

A well drafted Website Terms and Conditions of Use will deal with issues such as refunds and returns, consumer guarantees, deliveries, disclaimers and ownership. For a blog owners, they have the effect of limiting liability for any information and material that may be on your site (such as guest posts and comments). Additionally, it should lay down the rules for people visiting the website as well as providing protection of intellectual property (your content and ideas) on the website.

While the terms and conditions apply to clients that are engaging in a transaction, the website terms of use apply to all users who visit the website. The terms of use express what visitors can or cannot do with the information displayed on the website. It is an important tool for blogs as it protects your intellectual property from being republished without consent, while incorporating a disclaimer that specifies your limitations for liability.



Tip

Do not copy and paste a similar business's website terms and conditions of use. While this may seem like a shortcut, it is important that your T&Cs reflect what makes your business unique.

Create Marketing Policies

Marketing is no longer solely broadcast and print. Savvy retailers are constantly looking at new ways they can seamlessly reach their target audience. However as digital marketing becomes an irresistible option, it's important that you're aware of the relevant legal obligations, specifically surrounding email marketing.

Before sending a marketing email or SMS to your customers make sure:

- You have consent from the people you are sending messages: Usually businesses provide an option regarding this when capturing personal details.
- Identify your business with details that are accurate over the next 30 days.
- There is an option to unsubscribe.

We highly recommend businesses also include a disclaimer when sending marketing emails. This keeps your communications safe and secure. It ensures that the email is to be read only by the recipient, contains a disclaimer for 'opinions' and also email errors.



Email Disclaimer

An **Email Disclaimer** is added to an email and is a statement of legal character that identifies the email is only for the intended recipient and contains a disclaimer for opinions and errors. It protects the content of your emails from being used incorrectly. As an online business, you are responsible for the actions of your employees - email disclaimers are a way for your company to protect itself and prevent unwanted costly lawsuits.

Email disclaimers are desirable to prevent defamation, unintended contract formation and misdirected emails. A disclaimer acts as a deterrent to sue in relation to the content of the email. It may also exempt a company or business from liability as to the contents of an email.

The use of an email disclaimer is fundamental to risk management and best practice for any business. A well written Email Disclaimer can go the extra mile in protecting individuals, companies and their information.



Tip

Place your email disclaimer below your email signature to ensure it's included on every email you send.

Refund Policy

Online businesses are not exempt from making customer's rights apparent. Under the Australian Consumer Law, terms of payment, delivery, services, return and refund policies must be made clear to the consumer. These essential details should be provided on the 'Terms and Conditions' page of your website to ensure legal compliance and account eligibility with most Australian banks.

All online retailers must have a refund policy. The majority of customers visiting your website will review your refund and returns policy before making any purchase. A clear and comprehensive refund policy establishes trust with your customers, allowing them to feel confident in the purchases they make on your website.



Tip

It is wise to have an option for customer feedback and complaints on your website, this can be helpful for customer interaction and allow issues to be resolved before any legal action is sought.

Complying with ACCC

Businesses must guarantee products and services they sell, hire or lease for under \$40,000 and those normally bought for personal or household use over \$40,000, despite any warranties they give or sell to you.

If businesses fail to deliver on any guarantees including warranties offered, rights to repair, replacements and refunds, cancelling a service and compensation for damages and loss, a consumer can use their rights under the Australian Consumer Law for automatic protection.

To ensure your compliance, the goods for sale on your website must:

- Be an acceptable quality;
- Match the description provided on your website; and
- Meet any additional promises made about the quality and condition of your products, such as any money back offers and life time guarantees.

The services offered on your website must:

- Be provided with due care and skill or technical knowledge;
- Fit for a particular purpose; and
- Be delivered within a reasonable time (or the date specified).

Next Steps

Creating necessary legal foundations for your website is important to avoid potential legal and commercial disputes. Having these legal policies in place, in addition to relevant compliance reaffirms the suitability of your website, protecting the consumer, your product and the website you've taken time to perfect.

