



## LEGAL EXPERT

James Laman is a solicitor in the Sydney office of CBP Lawyers.

## HOW TO DEAL WITH BULLYING BY BIG BUSINESS

With the ever-present pressure to minimise costs, there is growing concern about unlawful bullying tactics of large corporations towards small suppliers. There are types of conduct that can constitute inappropriate exertion of power by big businesses and what smaller suppliers in this situation can do to protect themselves without jeopardising their current or future relationship with the big business they want or need to deal with.

Bullying by big business has the potential to be unlawful. If you are a small supplier dealing with big business, here are some of the tell-tale signs that could mean you are being unlawfully bullied:

- Requiring you to agree to rebate schemes without providing sufficient time to assess the purported benefits.
- Implementing restrictions on the re-supply of goods and services.
- Implementing conditions of receipt or supply.
- Requiring you to divulge intelligence and future direction of your products.
- Seeking payments from you with no legitimate basis to do so.
- Unfair tactics and undue influence when negotiating with you.
- Misleading information provided by the big business about savings and value for you from changes in trading terms.

When considering whether or not you have been subjected to inappropriate behaviour, it is important to remember that if you think you are experiencing bullying from big business, chances are that other suppliers of that business are also being bullied. With the rise of large oligopolies in Australia, even large suppliers are feeling the pinch.

If you are a small supplier facing bullying by big business in the form of one of the tell-

tale signs listed above, or any other conduct you suspect is inappropriate, it is important to contact your lawyer. Small suppliers often do not speak out against such behaviour, either because they are not aware that what is occurring is illegal, or they are not aware of solutions. Remember, just because you are small, does not mean you have no voice.

Increasingly, company executives are alive to competition law risks and are keen to avoid the punitive fines that can be incurred. Your position may be stronger than you think. If the conduct is brought to the attention of lawyers, they can help your business maintain its legal rights, because the law is designed to prevent anti-competitive behaviour by corporations with market power. More worryingly, if the conduct you are experiencing is not brought to a lawyer's attention and acted upon, it may have long-term impacts on your business and your ability to rectify the situation may deteriorate with time. It is therefore very important to be proactive as a business and conscious of how you are being treated.

It is important to bear this latter point in mind and not simply shrug off bullying behaviour with the attitude, "Well, I have to do business with this person, so there's not much I can do". There are several informal legal options (faster and much cheaper than starting legal proceedings) that can ensure that you are able to end the negative behaviour while maintaining your relationship with the relevant business for future transactions. If at first unsuccessful, these options can be followed by a gradual crescendo of more formal action, for instance making a complaint to the relevant ombudsman or the ACCC.

***"There are several informal legal options that can ensure that you are able to end the negative behaviour while maintaining your relationship with the relevant business."***