

# Code of Practice

For the Australian Assistive Technology  
Products and Services Industry

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*Revised November 2020*



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# 1. Objective

ATSA's objective is to implement a self-regulating Code of Practice ('Code') that ensures consistent provision of assistive technology products and services to customers with disability and that safeguards the interests of all stakeholders. Consumers are private individuals buying products or services other than for business purposes.

In addition to requirements for contracts with such consumers, this Code also covers business-to-business contracts where appropriate. Most of the entities that sign 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, National Disability Insurance Scheme or state/territory 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.

## 2. General Scope and Purpose of the Code

- 2.1. This Code governs the behaviour of entities that have registered with ATSA as members and agreed, among other matters, to abide by the criteria contained in this Code ('ATSA Members'). This Code operates throughout Australia.
- 2.2. In examining an ATSA Member's conduct and practice against this Code, only the clauses relevant to that ATSA Member and its products and services will be taken into account.
- 2.3. This Code is intended to reflect a philosophy of care and support for consumers. ATSA Members are required under this Code to make themselves aware of relevant legislation to ensure they do not offer, stipulate, infer or imply anything in their terms and conditions of contract which provides their customers with less protection than that provided by law, and to ensure that the terms in their customer 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, ATSA Members. When considering applications for membership, ATSA takes into account the past history of any directors/partners and will not approve the membership of any entity where a director, partner or major stakeholder has been involved, within the previous 12 months, in the winding up of a company or cessation of business in such a manner that ATSA considers that customers have been disadvantaged. Such entities will therefore be precluded from becoming ATSA Members at the sole and absolute discretion of ATSA.

ATSA serves as administrator of this Code and seeks to ensure compliance by ATSA Members with the terms of this Code.

# 3. Definitions/Terminology

## • **Assistive Technology (AT) Industry**

3.1. For the purposes of this Code, an entity engaged in the “AT industry” is defined as a business or organisation involved in one or more of the following:

- supply of assistive technologies, particularly those for seniors and/or consumers with 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;
- supply of repair and maintenance services for assistive technology devices;
- 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 avoidance of doubt, the AT industry (in relation to this Code) does not include:

- Pharmaceuticals
- Alternative/complementary medicines or therapies
- Dentistry
- General Practitioner practice
- Ophthalmology
- Implants
- Critical care

## • **Assistive Technology**

3.3. An ‘assistive technology’ is a product or service that enhances independent living as defined in \*ISO 9999:2016 Assistive products for persons with disability – Classification and terminology

\*ATSA acknowledges that the ownership and copyright of ISO 9999:2016 is the International Organization for Standardization (ISO).

- **ATSA Member**

34. An 'ATSA Member' is any business or other organisation who has successfully applied for and been granted ATSA membership and who has agreed to comply with this Code.

- **Entity**

35. For the purposes of this Code, "entity" includes:

- 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); and
- Any other body declared by ATSA to be an entity for the purpose of this Code.

- **Customers and Consumers**

36. "Customers" can include private individuals, businesses, registered charities or authorities/agencies such as the Department of Veterans' Affairs.

37. 'Consumer' is a customer who is a private individual that buys products or services other than for business purposes.

## 4. Principles Underpinning This Code

4.1 All ATSA Members 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, privacy laws, work health and safety (WHS) laws and the general protections available to all consumers under the Australian Consumer Law (which is set out in Schedule 2 of the *Competition and Consumer Act 2010*).
- b) They must make themselves aware of, and comply with, relevant legislation (as described in Appendix B) to ensure they do not offer, stipulate, infer or imply anything in their terms and conditions of contract that 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 ATSA Member 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 customers or other persons 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 AT industry, to serve the best interests of society, and above all, to safeguard the interests of individual consumers. 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 that customer's behalf, except where such disclosure is required by law. They will be honest and truthful in all their dealings with customers.
- f) All communications, verbal and written, will be made in plain language.
- g) At all times, customers will be respected and those that are vulnerable will not be coerced in any way. ATSA Members should be familiar with the information in publications from the Australian Competition and Consumer Commission 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 must be given to anyone who requests it and, where complaints cannot be resolved directly with the ATSA Member, complainants will be made aware of their right to make a complaint to ATSA in accordance with section 16 of this Code.

## 5. Advertising and Marketing

- 5.1. When an ATSA Member undertakes marketing and promotional activities, in addition to having due regard for current legislation, it must ensure that 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 or standard 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 ATSA Members

- 6.1. ATSA Members' staff must always clearly identify themselves and, when travelling away from the ATSA Member's premises, provide a reason for their visit.
- 6.2. ATSA Members' staff must never purport to have medical training or expertise 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. ATSA Members' staff must:
  - 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 AT industry, to serve the best interests of society and, above all, to safeguard the interests of individual customers;
  - b) be accountable for their own working practices and, in the exercise of such accountability, to act, at all times:
    - b.1. in compliance with applicable legislation and in a manner befitting a professional worker in the AT Industry;

- b.2. in such a way as to promote and safeguard the well-being and interests of consumers, including complying with any applicable WHS obligations for the jurisdictions in which they work;
- c) take every reasonable opportunity to maintain and enhance knowledge and competence within their field of work;
- d) work in a collaborative manner with customers and healthcare professionals and recognise and respect the contribution of all within the AT team;
- e) take account of the goals, aspirations, values, customs 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 in this Code have been explained), before seeking their 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 their work and not disclose such information without the consent of the customer concerned or a person entitled to act on that customer's behalf, except where such disclosure is required by law and where such disclosure is addressed in the ATSA Member's privacy policy;
- i) assist colleagues, wherever possible, to develop competence in relation to the needs of their work; and
- 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. ATSA 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 work health and safety, disability discrimination, privacy and consumer rights).

- 7.2. ATSA Members must 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, safety regulations, WHS Codes of Practice, lifting operations and lifting equipment regulations.
- 7.3. ATSA Members must ensure that their staff do not work unsupervised until they are considered competent to do so. Registered professionals such as occupational therapists, rehabilitation engineers, 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. Ongoing training must be facilitated by ATSA Members.
- 7.4. ATSA 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. ATSA Members must give all staff a copy of this Code and make them aware that the ATSA Member and its' staff are required to adhere to the provisions of this Code.
- 7.7. ATSA Members must ensure that their staff give due regard to infection control issues where relevant.

## 8. Representation at Point of Sale

- 8.1. ATSA Members must ensure that their staff have the appropriate product knowledge to advise and assist customers.
- 8.2. ATSA Members must inform customers that a copy of this Code is available on the ATSA website or will be provided free of charge, on request. In addition ATSA Members must prominently display 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. ATSA Members must not use inappropriate selling tactics, which include but are not limited to the following:
  - high pressure selling techniques;
  - unreasonably long stay (for sales in the home);

- discount on the condition that the customer 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 consumers must be made aware, where appropriate, of AT products and services offered by state, territory or federal government departments such as the National Disability Insurance Scheme, Department of Veterans' 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 laws and regulations. Consumers who could become easily confused, should be encouraged to have a relative, friend or other advisor/carer with them.
  - 9.4. Any known limitations of a product/service must be made clear to the customer, and any clear disparity between the products 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 products 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 the customisation must be notified to them.
  - 9.7. When requested by the customer, all verbal representations or promise 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 include goods and services tax, be clear, 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.

- 9.10. 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 options, 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.
- 9.11. Details of delivery, installation, training, after-sales support, service and warranty-period must be made available prior to sale.
- 9.12. 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 that 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.
- 9.13. When required, demonstration of the safe use of equipment for its use under the conditions that the customer best describes as 'normal' for his/her purposes must be offered prior to conclusion of a sale. The customer must be encouraged to seek appropriate tuition/training from an independent healthcare professional.
- 9.14. In particular, demonstration in the safe use of mobility devices (excluding clinically scripted mobility aids – see clause 9.15) must be given at the time of purchase and/or on delivery. The demonstration should follow a discussion of needs, aspirations, abilities and disabilities to enable selection of the most suitable mobility device and specification for the customer and their circumstances.
- 9.15. A mobility device must only be sold if the ATSA Member can realistically expect the customer to develop satisfactory control of the device.
- 9.16. Clinically scripted mobility devices should be delivered, commissioned and demonstrated in accordance with the scripted instructions.

## 10. Linked Products and Services

- 10.1. If the product will need regular servicing, 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 provide such information 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. Consumers' attention must be drawn to user manuals and consumers must be informed of the need to read them thoroughly.
- 11.3. Depending on the nature of the product, the instructions/manuals 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;
  - Warranty in accordance to consumer right legislation;
  - Cleaning/decontamination instructions; and
  - Any specific warnings.
- 11.4. Product labels must comply with any relevant statutory regulations (eg, requirements of the Therapeutic Goods Administration or any work health and safety regulator).

## 12. Cooling-off Period, Cancellation Rights and Protection of Deposits

- 12.1. If an ATSA Member offers a cooling-off period other than that required by law, the details 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, the non-refundability must be made clear when the customer places the order and the reasons for it must be clearly described. If the customer cancels the contract lawfully, full repayment must occur (unless, for example, the products have been damaged after delivery), and in any circumstance monies withheld must not amount to more than the actual loss incurred by the ATSA Member.
- 12.4. Where an order cannot be fulfilled and the customer does not wish to accept substitute products or services, the refund must be made as soon as reasonably practicable 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. ATSA 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', for the purpose of clause 13.1, will normally be taken to mean providing a response and, where appropriate, arranging a visit to the customer 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 the product 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. A normal 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 an ATSA Member 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 while in the ATSA Member's possession and ATSA Members must not seek any disclaimers to avoid liability for loss or damage. ATSA Members must ensure that 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 products or their use after sale.
- 13.14. If an ATSA Member 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 Consumer'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 consumer.
- 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. Consumers 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 consumers (examples of what might be high pressure selling tactics are listed in clause 9.1.).
- 14.5. Salespersons must comply with a consumer's request that they leave and no assessment or sale should normally last longer than 3 hours, other than in exceptional circumstances (eg, when an independent health services professional is present and is responsible for leading the assessment).
- 14.6. When work has been carried out, a schedule of the work (labour, parts, etc) must accompany the invoice, detailing a breakdown of costs.

### • Internet Sales

- 14.7. ATSA Members' websites must include appropriate warnings and recommendations encouraging consumers to obtain advice from an independent healthcare professional prior to purchasing products.
- 14.8. ATSA 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 products to be purchased on sale or return, and the conditions upon which products 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.

14.10. Information as to any facility or products to be purchased on sale or return, and the conditions upon which products may be returned, must be brought to the attention of customers in writing.

• **Rental Products**

14.12. Where products are 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.

• **Sales Commissions & Rebates**

14.13. ATSA Members must be open and transparent when entering into commission or rebate arrangements for the sale or supply of products and services.

14.14. ATSA Members must not enter into commission and rebate arrangements with a third party that are not known to the customer.

14.15. ATSA Members must make potential customers aware, in advance, of any arrangements for commissions or rebates in place between ATSA Members and third parties.

• **Gifts and Hospitality**

14.16. ATSA Members and their staff must not offer, promise or provide a gift, favour, hospitality and/or entertainment for the purpose of obtaining favourable treatment from customers, including AT funders and allied health practitioners.

14.17. ATSA Members may provide gifts or other benefits where the gift or benefit is not intended to obtain favourable treatment and does not create the appearance of a payment or inducement or create the perception of a conflict of interest and the following conditions are satisfied:

- the total value of the gift or benefit, including hospitality, is no more than \$100 per year;
- the disclosure of the gift or benefit would not compromise the business or the beneficiary of the gift or benefit and is unlikely to be of concern to ATSA; and
- the gift or benefit is reasonable and appropriate and consistent with this Code.

## 15. Clause Relating to Commercial Business Relationships

- **Sponsorship**

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

- **Sub-contractors and Other Third Parties**

15.2. ATSA Members must ensure that any sub-contractor, third party, or person carrying out work or representation on the ATSA Member's behalf is aware of and complies with this Code and applicable WHS and privacy laws.

- **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  
(Organisations Responsible for Placing a Product on the Market in Australia)**

15.4. ATSA Members 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. ATSA Members must be able to provide evidence to ATSA, on request, that any of their products requiring registration by the Therapeutic Goods Administration have such registration.

15.6. ATSA Members that manufacture and/or import medical devices must ensure spare parts are available for at least 5 years from the date of final manufacture. For all other products, ATSA Members must be mindful of their obligation to stock spare parts for a reasonable period of time from date of final manufacture.

15.7. ATSA Members 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 an ATSA Member becomes aware of an incident involving a product that resulted in, or could have resulted in, serious injury to or death of a consumer, the ATSA Member must report that incident to the appropriate authority (eg, Therapeutic Goods Administration). The ATSA Member may also consider seeking external legal advice as to any further obligations that must be complied with under WHS laws as such obligations depend on the individual circumstances of each risk/injury.

15.9. ATSA Members must comply with both the Therapeutic Goods and Administration (TGA) and Australian Consumer Law around mandatory injury reporting. Reports must be filled within relevant timeframes for the Therapeutic Goods and Administration (TGA) medical devices and/or Australian Competition & Consumer Commission, plus any requirements of the NDIS Quality and Safeguard Commission.

- **Product Recalls and Safety Warnings**

15.10. ATSA 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.

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

15.12. ATSA Members selling to agencies such as the Department of Veterans' Affairs and local authorities must advise them of the need to track products, to ensure that tracing and recovering a product can occur.

15.13. ATSA members must comply with any voluntary or mandatory product recall orders by product manufacturers or importers or Government agencies, e.g. ACCC, TGA.

- **Selling to Government & Non-government Agencies eg, Department of Veterans' Affairs, charities, etc)**

15.14. ATSA Members must give due respect to any codes, regulations or procedures operated by a government agency.

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

- 15.16. 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 modest in nature and relevant to the practice of their profession or employment.

## 16. Use of ATSA Name and Logo

- 16.1. In consideration of the ATSA Member complying with the requirements of this Code of Practice and paying any applicable membership fees and only for as long as the entity is an ATSA Member, ATSA grants to each ATSA Member a non-exclusive, non-transferable license to use the name “ATSA” and the ATSA logo (the Trademarks) in connection with the ATSA Member’s products and services, provided that the ATSA Member uses the following disclaimer (or such other disclaimer that may be specified from time to time) in connection with the Trademarks:

*“The ATSA name and logo are used with the permission of Assistive Technology Suppliers Australia Ltd”*

- 16.2. ATSA Members agree that they must prominently display the ATSA Code of Practice poster and the ATSA Code logo throughout their business premises.
- 16.3. If requested by ATSA, each ATSA Member must submit to ATSA for inspection copies of all materials bearing the Trademarks and samples of any products and services bearing the Trademarks.
- 16.4. ATSA Members agree that they must use the Trademarks in accordance with any style guide provided by ATSA from time to time.
- 16.5. If an entity ceases to be an ATSA Member, that entity must immediately stop all use of the Trademarks and deliver up to ATSA any advertising materials, products or documents that incorporate the Trademarks.
- 16.6. If an ATSA Member receives notice of any infringement, threatened infringement or passing off of the Trademarks, or any action is threatened against the ATSA Member in connection with the use of the Trademarks, the ATSA Member must immediately notify ATSA.

## 17. Administration of this Code

- 17.1. ATSA Members are entitled to fair and equitable treatment under this Code.
- 17.2. ATSA is responsible for the effective operation and administration of this Code, including review, monitoring, complaints handling and appeals. In this capacity, ATSA may appoint subcommittees and delegate to them the management of any aspect of administration of this Code.
- 17.3. ATSA will ensure that the Code is available on the ATSA website at all times and encourage ATSA Members to reference and provide links to the Code on their own websites.
- 17.4. ATSA encourages ATSA Members to promote awareness of the Code by their staff, suppliers and customers.

## 18. Complaints Handling

### • Code Complaint Process

- 18.1. Customers may lodge a complaint with ATSA that an ATSA Member has breached this Code.
- 18.2. Before lodging a complaint in respect of an ATSA Member, the complainant is encouraged to resolve the matter directly with the ATSA Member, and:
  - if the parties resolve the matter, no further action is taken;
  - if the parties are unable to resolve the matter, a formal complaint may be lodged with ATSA.

### • Internal Process of ATSA Members

- 18.3. All ATSA Members are encouraged to have in place a speedy, responsive and customer friendly procedure for the internal resolution of complaints (ie, any expression of dissatisfaction regarding the products and/or service supplied by the ATSA Member). ATSA Members are expected to resolve complaints internally within a timely and reasonable manner. If the complaint resolution is expected to extend greater than one month, communication should be made updating the complainant of the expected timeframe/s.
- 18.4. Customers wishing to make a complaint must be informed to whom within the ATSA Member business they should address their complaint, what information they are required to provide, and the timeframe 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). ATSA recommends Initial acknowledgment of a complaint be made by:

- telephone within 2 working days of receipt of the complaint; then
- letter, fax or email within 5 working days of receipt of the complaint.

Customers must also be informed that should this process fail, they have the right to contact ATSA who will follow the procedure outlined in this clause

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

- 18.5. ATSA Members must offer maximum cooperation with consumer advisers or any other intermediary consulted by the complainant, such as the Department of Fair Trading, etc.
- 18.6. Staff must be advised to be professional, courteous, prompt and fair when dealing with a complainant.
- 18.7. Customers need to be made aware of their right to lodge a complaint through external agencies eg. NDIS Quality and Safeguards Commission, Australian Competition and Consumer Commission.

• **Code Administrator (ATSA)**

- 18.8. When ATSA receives notification in writing of a complaint against an ATSA Member, it will consider whether the ATSA Member has:
  - complied with this Code; or
  - otherwise acted in a manner which has resulted in the complainant suffering loss, inconvenience or dissatisfaction with the services provided.
- 18.9. ATSA will first consider whether the complainant has attempted to resolve the matter directly with the ATSA Member concerned.
- 18.10. If such an attempt has been made, then ATSA will:
  - request that the complainant set out the facts that form the basis of the allegation that the ATSA Member breached this Code and provide all relevant documentation;
  - ask the ATSA Member to respond to the complaint in writing to ATSA within 14 calendar days (or such other agreed period), giving as much evidence as possible;
  - consider any evidence of breaches of this Code;
  - attempt to settle the dispute by agreement between the two parties, including by means of conciliation facilitated by ATSA if the complainant agrees to this process.

ATSA will not charge complainants in respect of this process.

- 18.11. If a dispute remains unresolved 14 days after the finalisation of ATSA's dispute resolution process outlined above (or such other time as is agreed between the parties), then the complainant may elect that the dispute be referred to mediation by an independent mediator under the then current rules for mediation used by the Australian Commercial Disputes Centre (ACDC) in Sydney, Australia.
- 18.12. Unless otherwise agreed by the parties, the mediation will be held in Sydney and each party must without delay do everything possible to assist the process of mediation including but not limited to complying with any request of the mediator in a timely manner.
- 18.13. The cost of the mediation must be paid by the complainant and the ATSA Member equally unless otherwise agreed or determined by the mediator during the mediation process.
- 18.14. ATSA cannot deal with a complaint if the complaint:
- is against an entity that is not an ATSA Member;
  - is being, or has been dealt with, by a court or similar body; or
  - relates to a point in time prior to the entity becoming an ATSA Member.
- 18.15. ATSA will comply with its own privacy policy in circumstances of dealing with complaints where it obtains any personal information either directly or indirectly.

## 19. Sanctions and Disciplinary Actions

- 19.1. Where an identified breach of the Code is minor, ATSA will issue a warning and suggest actions, where appropriate, to prevent repetition. All serious, or repeated, breaches of this Code will result in ATSA making a recommendation to the ATSA Board in regards to termination or suspension of membership of ATSA or expulsion from ATSA.
- 19.2. The nature of the breach will be identified to the ATSA 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.
- 19.3. The Board's decision may include one or more of the following:
- no further action be taken;
  - the ATSA Member be required to undertake a specified course of remedial action (such as re-training of a particular staff member);
  - the ATSA Member be issued with a formal warning;
  - expulsion of the ATSA Member as a member of ATSA.

- 19.4. Where expulsion occurs, a minimum period of 12 months must pass before any application to re-join ATSA will be considered. If any complaints against the entity have been made to ATSA during that time, such application may be rejected for a further period of time.
- 19.5. The process of establishing that a serious breach has occurred through to final decision of the ATSA Board and instigation of any action will take no more than 90 days.
- 19.6. Members have the right to appeal the Board's decision within 60 calendar days, by writing to the Board. The appeal must provide evidence and reasoning to justify the Board's need to reconsider its decision.

## 20. Privacy

- 20.1. Where required, ATSA Members must ensure they are compliant with the *Privacy Act 1988 (Cth)* and the 13 Australian Privacy Principles (APPs) with respect to the collection, use and disclosure of personal information.
- 20.2. ATSA Members are encouraged to ensure they have in place appropriate privacy policies and compliance plans to address their privacy obligations and should seek external legal advice where they believe such assistance is necessary.

## 21. Work Health and Safety (WHS)

- 21.1. Each State and Territory and the Commonwealth in Australia have work/occupational health and safety laws.
- 21.2. ATSA Members must ensure they are compliant with all WHS laws with respect to all aspects of their business and keep on top of any developments in their industry as it relates to safety. The work health and safety regulator in each jurisdiction (eg, WorkCover NSW) can be a useful source of information (refer Appendix A).

## 22. NDIS

- 22.1. Each ATSA Member that has been approved as a registered provider of supports under the *National Disability Insurance Scheme Act 2013 (Cth)* must comply with the *National Disability Insurance Scheme (Registered Providers of Supports) Rules 2013* and such other applicable rules as may be implemented by the NDIS.

## 23. Whistleblowers

- 23.1. ATSA is committed to the highest standards of integrity and conduct. If anyone (a disclosee) is aware of possible wrongdoing, including unethical, illegal, fraudulent or undesirable conduct, in respect of ATSA or any ATSA Member, that person is encouraged, in the first instance to utilise their company's Whistle Blower policy. If this is not possible, then to disclose this information to ATSA and ATSA will support that person in doing so.
- 23.2. Reports can be made in person or by telephone, post or email. In the first instance, disclosures should be made to the Executive Officer of ATSA. If the disclosure concerns the Executive Officer of ATSA, disclosure may be made to the Chair or Vice Chair of the Board of ATSA.
- 23.3. Disclosees are encouraged to obtain independent legal advice if they are not sure about whether to make a disclosure and whether that disclosure is protected under law, or contact regulatory bodies, such as ASIC, APRA or the ATO, if they believe they have suffered detriment. Where possible and subject to law, ATSA will seek to treat disclosures confidentially and sensitively and will seek to protect the identity of the disclosee.
- 23.4. ATSA will seek to investigate all reports in a fair and timely manner.

# Appendix A - Useful Contacts

## To source a product:

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

## To check the status/credentials of a health professional:

- Occupational Therapy Australia – [www.otaus.com.au](http://www.otaus.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
  - ACT - [www.technicalaidact.org.au](http://www.technicalaidact.org.au)
  - NSW - [www.tadnsw.org.au](http://www.tadnsw.org.au)
  - QLD - [www.tadq.org.au](http://www.tadq.org.au)
  - SA - [www.tadsa.org.au](http://www.tadsa.org.au)
  - TAS - [www.tadtas.org.au](http://www.tadtas.org.au)
  - VIC - [www.solve.org.au](http://www.solve.org.au)
  - WA - [www.tadnsw.org.au](http://www.tadnsw.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.qld.gov.au/law/fair-trading](http://www.qld.gov.au/law/fair-trading)
- 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.consumeraffairs.nt.gov.au](http://www.consumeraffairs.nt.gov.au)

## To make an adverse incident report:

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

## For assistance in relation to privacy:

- Office of the Australian Information Commissioner – [www.oaic.gov.au](http://www.oaic.gov.au)

### **For assistance in relation to work health and safety:**

- Commonwealth – [www.comcare.gov.au](http://www.comcare.gov.au)
- New South Wales – [www.workcover.nsw.gov.au](http://www.workcover.nsw.gov.au)
- Queensland – [www.worksafe.qld.gov.au](http://www.worksafe.qld.gov.au)
- Victoria – [www.worksafe.vic.gov.au](http://www.worksafe.vic.gov.au)
- Tasmania – [www.worksafe.tas.gov.au](http://www.worksafe.tas.gov.au)
- South Australia – [www.safework.sa.gov.au](http://www.safework.sa.gov.au)
- Western Australia – [www.commerce.wa.gov.au/WorkSafe](http://www.commerce.wa.gov.au/WorkSafe)
- Northern Territory – [www.worksafe.nt.gov.au](http://www.worksafe.nt.gov.au)
- Australian Capital Territory – [www.worksafe.act.gov.au](http://www.worksafe.act.gov.au)

### **For assistance in relation to advertising:**

- Advertising Standards Bureau – [www.adstandards.com.au](http://www.adstandards.com.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 *Competition and Consumer Act 2010*
- Commonwealth *Australian Security and Investments Commission Act 2001*
- Commonwealth *National Consumer Credit Protection Act 2009*
- Commonwealth *National Disability Insurance Scheme Act 2013*
- Commonwealth *National Disability Insurance Scheme (Registered Providers of Supports) Rules 2013*
- Commonwealth *Privacy Act 1988*
- Australian Capital Territory *Fair Trading (Australian Consumer Law) Act 1992*
- NSW *Fair Trading Act 1987*
- Queensland *Fair Trading Act 1989*
- South Australia *Fair Trading Act 1987*
- Tasmanian *Fair Trading Act 1990*
- Victorian *Australian Consumer Law and Fair Trading Act 2012*
- Western Australian *Fair Trading Act 2010*



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