

Commercial Insights

ACCC alleges SmileDirectClub misled consumers regarding health insurance reimbursements for clear teeth aligners

On 12 July 2021, the Australian Competition & Consumer Commission (**ACCC**) instituted proceedings in the Federal Court of Australia against SmileDirectClub Aus Pty Ltd and its US parent company, SmileDirectClub LLC (**SmileDirectClub**), alleging they had breached the Australian Consumer Law (**ACL**).

The ACCC claims that between May 2019 and October 2020, SmileDirectClub breached section 18 of the ACL, by engaging in conduct that was misleading or deceptive, or likely to mislead or deceive, and made false or misleading representations:

- that its goods or services had approval or benefits (breach of section 29(1)(g)); and
- concerning the existence, exclusion or effect of a condition or right (breach of section 29(1)(m)).

SmileDirectClub sells dental aligners directly to consumers at a cost of around \$3,000. The company produces the aligners, which are approved remotely by affiliated dentists, based on consumers' photographs and dental impressions (using a SmileDirectClub kit) or 3D imaging and photographs.

The ACCC claims SmileDirectClub represented to at least 26,300 Australian consumers that upon purchasing SmileDirectClub's aligners, they may be eligible for reimbursements from their respective private health funds. However, most private health funds do not cover the treatment without face-to-face consultations. Moreover, the ACCC claims that SmileDirectClub's affiliated dentists were not recognised by applicable Australian private health insurers, whose services were eligible for health insurance payments. Finally, the ACCC claims that SmileDirectClub represented that they contacted particular consumers' private health funds to determine if the treatment was covered, when they did not.

It is alleged that many SmileDirectClub consumers may not have purchased the dental aligners had they known that they would not be reimbursed for the treatment by their private health funds.

The ACCC is seeking declarations, pecuniary penalties, compliance orders, publication orders, consumer redress orders and costs.

Please [click here](#) for the ACCC's Media release.

This article was written by Principal [Mark Fitzgerald](#). If you have any questions about the Australian Consumer Law and your obligations, please contact Mark Fitzgerald.



Mark Fitzgerald

Principal

+61 3 9810 6767

mfitzgerald@meridianlawyers.com.au

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