



Procedure 2.03 - Competition & Consumer Law Compliance

1. Application

This procedure applies to all NQBP Personnel.

2. Procedure

Background

Within the Compliance Policy framework, NQBP must comply with any competition and consumer laws. Policy 2 - Compliance and this Procedure sets out the principles that NQBP has adopted in relation to compliance with the *Competition & Consumer Act 2010* (CCA), as well as the framework for compliance, which puts in place the necessary processes to assist NQBP Personnel to meet their legal obligations under the CCA and Australian Consumer Law (ACL) (collectively the Competition and Consumer Law (CCL)).

Reporting

NQBP Personnel are required (subject to the below) to report any CCL compliance related issues to the Associate General Counsel or other duly appointed Legal Compliance Officer.

Where a person is aware of another person within NQBP who may be engaging in corrupt conduct or may be guilty of illegal conduct, that person should report that conduct in accordance with the Whistle-blower Protection Procedures/Public Interest Disclosure Management Program and the Integrity Framework Standard.

To the extent set out in these standards, guidelines and procedures, the person who reports this conduct will not be personally disadvantaged within NQBP and will be immune from internal disciplinary action. To the extent permitted by law, the details of the whistle-blower will be kept confidential.

CCL Compliance Program

NQBP is committed to maintaining an effective Competition & Consumer Law Compliance Program to assist all NQBP Personnel in meeting their legal obligations. Appropriate resources by way of training and systems will be devoted in support of NQBP's commitment to compliance.

The objectives of NQBP's Competition & Consumer Law Compliance Program are to establish NQBP as an organisation in which:

- NQBP Personnel demonstrate a commitment to competition law compliance;
- appropriate systems and procedures are in place to assist compliance by NQBP Personnel with the CCL requirements;
- practical and ongoing training is provided on the CCL requirements and these systems and procedures; and
- NQBP Employees are held accountable for their performance and their conduct.

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To achieve these objectives, the Competition & Consumer Law Compliance Program must remain visible and accessible in:

- identifying competition risk areas;
- explaining CCL obligations in a practical manner;
- implementing compliance systems and procedures for training, complaints handling, reporting and record keeping, enforcement, analysis and rectification and monitoring;
- providing NQBP Personnel with on-going, practical training;
- promoting appropriate contractual negotiation and requirements so that contractors, sub-contractors, agents and distributors are in a position to meet relevant compliance obligations;
- facilitating the monitoring and assessment of the Competition & Consumer Law Compliance Program against the Compliance Policy, this Procedure and their objectives; and
- facilitating a review and assessment to achieve continuous CCL compliance improvement.

NQBP's CCL Compliance Program includes:

- issue of a Compliance Policy;
- issue of this Competition & Consumer Law Compliance Procedure;
- issue of a board resolution supporting NQBP's CCL Compliance;
- issue of a Complaints Policy and Procedure, as well as a Whistle-blower Protection Procedure and Whistle-blower and Public Interest Disclosure Management Program and an Integrity Framework Policy and Standard;
- issue of a CCL Compliance Manual tailored to address key CCL risk areas within NQBP;
- ongoing training and workshops on the CCL for all relevant employees;
- regular updates on changes to the CCL law, including legislation and cases; and
- an obligation for regular review of the Compliance Policy, CCL Compliance Procedure.

CCL Compliance Manual

There is a CCL Compliance Manual available for all NQBP Personnel. The Manual is accessible via the NQBP Intranet and in RM8.

This Manual is structured to outline the key CCL concepts and issues, and includes tailored examples that are relevant to NQBP's business. It also includes some training modules that assist in increasing understanding of CCL issues that are relevant to NQBP Personnel and Contractors.

The Manual is reviewed on a regular basis and when changes are made to legislation to ensure that it is up to date with statutory and case law developments on competition law issues.

Identification of CCL Risk Areas

Identification of CCL risk areas will occur via NQBP's existing risk management system (refer Policy 4 - Finance and the Risk Management Framework). This policy requires all NQBP Personnel to report risk circumstances, which will then be assessed by the senior management team and included in NQBP's risk management system (along with mitigants) where appropriate.

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In addition, the senior managers review risk circumstances on a regular basis. Risk management reports detailing high risk areas are reported to the Board on a monthly basis, with a more comprehensive risk management report being provided to the Board on a quarterly basis.

As part of its role, the Corporate Governance and Planning Committee also reviews risk issues to assist the Board in the discharge of its risk management responsibilities.

Training

Training in relation to the CCL will be conducted for all NQBP Personnel on an annual basis. Refresher training will be conducted more frequently as required, where substantial changes in the CCL occur.

CCL training will also be provided to new NQBP Personnel and Contractors of NQBP, as part of the induction process.

The CCL training will cover key CCL concepts and issues, and will include tailored examples that are relevant to NQBP's business. This training will also include potential CCL issues that arise in the course of contractual negotiations, as well as in documents and other material that NQBP provides to the public, regulatory authorities and stakeholders.

Regular Updates on Changes in the CCL

Each month, significant changes to key legislation affecting NQBP are identified and updates on this are provided to NQBP Personnel. This includes any changes in the CCL.

In addition, on an annual basis, as part of NQBP's risk management system, a more comprehensive review is undertaken of the Key Legislation Risk Matrix to update this matrix to incorporate changes in key legislation affecting NQBP (refer Policy on Compliance). This risk matrix includes the CCL. The resulting report is considered by the senior management team with outcomes fed back into NQBP's risk management system as appropriate (refer Policy on Risk Management).

Access to Legal Advice

Legal advice is available for any issues relating to CCL compliance. This can be organised through the Associate General Counsel or other appointed Legal Compliance Officer from time to time.

In addition, in relation to the majority of contracts that NQBP enters into, a certificate of correctness is required to be provided by an external law firm. One of the issues that this certificate confirms relates to compliance of the provisions of the contract with the CCL.

Monitoring Compliance with the CCL

The Associate General Counsel or Legal Compliance Officer will keep an up to date record of all reported CCL compliance issues. Legal advice will be sought where necessary to assess the issue, including advice on mitigants.

Details will be provided to the CEO as and when any such issues arise.

A report will be provided to the Board on an annual basis (and more regularly if a significant CCL compliance issue arises), including details of the circumstances surrounding the breach and steps taken to rectify any exposure to the breach, as well as recommendations for ongoing preventative measures (as appropriate).

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Ongoing Assessment and Improvement

NQBP will monitor and assess its compliance against the Compliance Policy, this Procedure and its objectives. The Associate General Counsel or Legal Compliance Officer will report directly to the Board on no less than an annual basis in relation to this assessment.

NQBP will assess its competition law compliance improvement as a result of instituting the CCL Compliance Program through an annual review which addresses the following:

- how well the compliance processes are understood by NQBP Personnel identified as being in critical risk positions (training attendance and comprehension);
- instances of compliance failure, including number of CCL-related complaints reported, systematic and recurring complaints and queries, and solutions put in place as a result of the complaints;

Enforcement

Where there has been a failure to comply with the CCL by NQBP Personnel, appropriate additional training will be provided to that person. In addition, if the nature of the non-compliance so warrants, the matter will be dealt with as a breach of NQBP's Code of Conduct and that person will be subject to the sanctions outlined in that Standard.

3. Legislative Framework

NQBP is a Government Owned Corporation and port authority and is required to comply with its own policies, prescribed applicable legislation and State Government policies and procedures. This procedure should be read in conjunction with:

- a. Policy 2 – Compliance
- b. Procedure 2.01 - Compliance
- c. Procedure 2.03 - Competition and Consumer Law Compliance
- d. Procedure 2.05 - Whistle-blower Protection
- e. Procedure 2.06 - Whistle-blower and PID Protection Management Program
- f. Standard 2.01 - Code of Conduct
- g. Standard 2.02 - Integrity Framework – Corrupt Conduct and Public Interest Disclosures
- h. *Competition and Consumer Act 2010* (Cth)
- i. *Crime and Corruption Act 2001* (Qld)
- j. *Corporations Act 2001* (Cth)
- k. *Government Owned Corporations Act 1993* (Qld)
- l. *Integrity Act 2010* (Qld);
- m. *Public Interest Disclosure Act 2010* (Qld)
- n. *Public Interest Disclosure Standard No. 1*

4. Procedure Review Date

This procedure should be reviewed by 31 October 2019.

5. Definitions

Contractors: means contractors or consultants engaged by NQBP under a personal services consultancy agreement or other similar arrangements.

NQBP: means North Queensland Bulk Ports Corporation Limited ACN 136 880 128.

NQBP Employee: means employees and Contractors of NQBP but does not include NQBP directors.

NQBP Personnel: means NQBP officers (for example NQBP directors) and NQBP Employees.

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