



# JARGONBUSTER

## UNCONSCIONABLE CONDUCT

---

At its most basic level, unconscionable conduct can be described as harsh or oppressive treatment of another business in a transaction where one side does not act in good faith.

---

This becomes an issue in the small business world usually when a larger, more dominant player uses its superior position to impose unreasonable conditions on the smaller party.

The Trade Practices Act is designed to deliver a more level playing field for all businesses large and small, and Part IVA of the Act prohibits unconscionable conduct in both commercial dealings and consumer transactions.

Individual companies and the ACCC can take businesses to the Federal Court if they believe there has been an act of unconscionable conduct. When considering if a business has been the victim of unconscionable conduct, the court may look at:

- the extent to which any party acted in bad faith
- whether any undue pressure or influence was put on any party during negotiations
- whether the alleged victim was clearly unable to understand documents used in the transaction
- whether the stronger party failed to disclose any important information that might affect the proposed deal or the decision of the weaker party to enter the deal.

Courts can order monetary compensation, damages, probation orders and community service orders when it finds that a party has acted unconscionably.

For more information on unconscionable conduct visit the business rights and obligations section of the ACCC website, [www.accc.gov.au](http://www.accc.gov.au).