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From: Leigh Brennan-Smith [REDACTED]
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To: Adjudication
Subject: Reference: Resale price maintenance: Festool/Tooltechnic Systems (Aust) Pty Ltd - Impact on Small business

Categories: Forwarded

To ACCC Commissioners

Reference: Resale price maintenance: Festool/Tooltechnic Systems (Aust) Pty Ltd - Impact on Small business

I have just completed the purchase of Festool sander product in the Melbourne CBD market in June, 2018. The product purchased was a Rotex 90 sander kit with a RRP of \$910.

For me the sander purchase was important for Health and Safety reasons and I justified the big expense as I know the product (like many of my quality powertool purchases) will last many years. This Sander however is approximately 2 to 3 times more expensive than other brand equivalents.

I am a user of Festool's sanders and vacuum for boat repairs where noxious anti foul marine paint and GRP fibreglass sanding are commonplace.

In my shopping for this product as a small business person I was alarmed at **the lack of price competition and retail bonuses** on FEESTOOL product, unlike virtually every other product sold in this country or in the highly competitive tool sales industry.

I was told there were "no discounts" on Festool during my visits to Just Tools South Melbourne, Total Tools South Melbourne and Moorabbin, Paint Spot Moorabbin, Sydney Tools South Melbourne - all of whom are Festool stockists.

As a former marketing executive I sniffed **Retail Price Maintenance** in practice. Knowing this to be illegal under Australian Consumer law, both through my business studies and personal experience as a marketing person working in the past for large Australian companies.

I was in a fair mind to report to report FESTOOL'S behaviour to the ACCC until I stumbled upon the agreement FROM THE ACCC TO ALLOW RETAIL PRICE MAINTENANCE to Tooltechnic Systems (Aust) Pty Ltd for Festool from 2014 onwards (and now it seems FEIN product.)

I must say I am horrified to see such an agreement in place and the frail arguments of "consumer interest" put forward by the importer and their merry band of dealers to support it's continuance.

Dealer schemes, specialised product knowledge, floor and point of sale, minimum stocking levels are all common place in the vehicle, grocery, department and electrical trades. What makes this brand and industry special to justify a sanction from Australian Consumer Law for an overseas produced product that clearly has brand and product differentiation?

If brand and product differentiation are present in a product and acknowledged by consumers, why not let the brand and its products find its own price and level of support with suppliers and the consumer market?

Clearly this exemption and any other like cosy arrangements need to see the glare of consumer sunlight!

If disclosed to the public I am sure trade users like me (self - employed hard working individuals) would similarly be appalled and wonder why one brand of power tools has succeeded to get special treatment from the ACCC.

I might have missed the proscribed reporting/consulting period for the renewal of these questionable arrangements and feel disappointed with the ACCC that they were allowed back in 2014. You've done great work supporting Australian Consumers and industry in the past but wonder what happened here to justify this protection.

I look forward to any response from the ACCC that explains this industry situation and the unique circumstances that might be argued to permit this practice from continuing. I cannot see how it is in the consumer interest.

Your sincerely

Leigh Brennan-Smith,
Small Business Owner

