

Australian Contract Law



Table of Contents

Q 1: Code of Ethics and Guidelines for Professional Conduct in 2010..... 2
Q2: Proposals to be considered in the coming time:..... 3
Q3. Australian Contract Law: 4
Reference: 7



Q 1: Code of Ethics and Guidelines for Professional Conduct in 2010

As accordance to the event occurred in Brazil, the company BHP Billiton Ltd cannot come out of the issue without taking the responsibility. The company is doing mining over that place and whatever happened to the site is more or less the impact of the dam that the company did not look after. Bowles *et al.* (2016) mentioned that the **Code of Ethics and Guidelines for Professional Conduct in 2010** clearly states a company, which is a member of Engineers Australia, must follow the guidelines mentioned in the ethics code. The very starting segment of demonstrating integrity suggests it clearly that a company must be well informed when they are working on a particular issue. Here, from the incident of a mudslide at the Valley of Gualaxo River, it is proved that they had not at all given importance to know that what can be the consequence of the breakage of the dam. As a co-owner of the mining project with the local company Samarco, it was the duty of the company to be well informed and aware of the result and not doing that; they made a violation of the ethical codes (Abc.net.au, 2016). They have also told the localities that there is nothing to be feared off from the project, and no warnings are being issued to the villagers of Bento Rodrigues.

However, being honest and trustworthy is another important code mentioned ethical code practice. Romani and Szkudlarek, (2014) pointed out that the law explicitly indicates that one must accept the faults if they committed one and open to fair criticism. However, from the current incident of Brazilian village, it is clear that the company has distanced itself from the mining mishap, which is unethical, and the company must take the ethical responsibility and help the victims of the mudslide. The company though had promised to evacuate the local people in case of any disaster, but it is evident from the happening that they have also failed to keep the promises (Engineersaustralia.org.au, 2016).

However, another important code of ethics is promoted sustainability and must remain concern about the public and foster the wellbeing of the community and environment. The Company also did not mention the potential impact of the dam and due to that, not only the local community that has suffered but also the environment has suffered dangerously. The water system of the river has been affected, and nothing in the river life has lived. However, as a responsible company, BHP Billiton Ltd has ordered an investigation to find out that what is responsible for



this natural disaster. Though the claim is that the company has overlooked the warning, but it is subject to the inquiry.

It is also a responsibility of the organization BHP Billiton Ltd to communicate properly with the partner company Samarco, which is also a standard company in mining and maintains a high regard. However, the investigation of BHP would also focus on the issues that how Samarco is keeping the level on the practical field in compare to the others.

Thus is it is proved that there are certain areas where the company has failed to live up the with the codes of ethical practices of the enterprise.

Q2: Proposals to be considered in the coming time:

It is important that the company BHP Billiton Ltd must take the legal issues into consideration before investing in different problems. There are some critical issues has come in front while discussing the role of the company in the catastrophic disaster in Brazil. However, the laws are changing on a constant basis to give more protection to the people and the environment. Thus in such situation, the company must look after into the strides with more severe thought. Based on the issues aroused in BHP Billiton Ltd, in the case of iron mining in co-collaborating with Samarco, here are individual proposals likely to be proposed.

Showing integrity: This one of the core proposal to the board is to showing necessary integrity and act only based the conscience. The company had board members in Samarco, but they did not bring the issues related to dam under the table despite knowing that it might affect the life of the people of the Bento Rodrigues. The company officials must be careful from the next time as it not only affects the business reputation but also legal charges can be framed against them. O'leary *et al.* (2013) mentioned that it is very needful that company and its officials must act aptly in case they felt anything to be wrong.

Accepting Criticism: The company must be prepared of listening to any criticism, as valid criticism can be constructive also. Also, Bowles *et al.* (2016) mentioned that one must explain the reasons of a particular working.



Gaining adequate knowledge: Another important issue is to obtain proper knowledge regarding a particular issue. It has been seen that BHP Billiton Ltd has ignored the problems related to the dam in earlier. They had trusted Samarco, but failed to point out the issues of concern, and thus they had been held responsible in issues of dam collapsing.

Communication errors: It has also been clear that a lack of communication was present there due to which the members of BHP Billiton Ltd who were also a board member of Samarco failed to point out the issues related to the company (Consumerlaw.gov.au, 2016).

Stay with the community: Another major fault of the company, which has heat them at the bottom line is that they were not with the people during a problem. None of the officials has visited the place, neither provided any relief to the victims of the mud slide. They also failed to cope up with their promises of being with local people, but somehow they have failed.

Environment Concern: the changing laws are getting very strict with a particular reference to the environment. Thus, the company must concentrate that whatever the project they have taken must not misbalance the ecosystem of the environment, which happened in the case of Brazilian valley.

Therefore from these proposals, it is clear that the laws may get stricter to safeguard the people and the environment, but the company must use these rules in a way which makes the company beneficiary and must not suffer any economic hit.

Q3. Australian Contract Law:

Memorandum

To: Customers of BetterCar Ltd ("BC")

From: Manager, BetterCar Ltd ("BC")

Date: August 27th,2016

Subject: Rights and Responsibility of BetterCar Ltd ("BC")

Due to recent happenings and customers' concern, BetterCar Ltd ("BC") is likely to present the role and responsibilities they are committed towards the clients as per the Australian Contract



Law. In recent happening it is clear that the accident of Tom, a rower represented Australia in Olympic had met an accident while driving the T2016 car of BetterCar Ltd ("BC").

The company, however, admits that the fault of the car happens from the negligence of an employee of the company, but it is also true that the terms and condition regarding the car clearly stated that one must always keep an eye open to the road even if the self-drive mode was on. The sales person of the company is strictly instructed as per the law of Australia to tell all the things to the customers before they are buying something. As per the Contract law, the oral agreement is also valid and here the buyer has signed the contract form of agreement where the conditions are explicitly mentioned.

The Australian Contract Law points out some of the clear issues related to damage and its claimant. The principal reason of giving damages is to compensate the defendant. However, if the plaintiff charges the damages for his breach, the damages are not being issues as per the reference to the case of Cassel v Broome. In the recent incident, it is not the breach that has happened from the side of the company but also from the side of the buyer as he deliberately slept even if knowing that the firm mentioned the people to remain awake and conscious throughout the driving process. There can be possibly three types of damages can happen as per law (Christensen and Duncan, 2016). However, it is necessary that a breach of contract have to happen while someone is demanding for damage claimant. However, the company knowing did not violate any contract with customers as the customers also signed the condition papers but as per the *Australian Consumer Law*, a manufacturer is responsible for selling damaged goods (Weatherill, 2013). However, if only the Contract law were valid, no one could sue the company.

In the instance this, the company would also likely to mention over here that, the company has thoroughly followed the instructions and guidelines of the codes and ethical practices set for the member engineers (Wang *et al.* 2014). The company mentions it not only on the paper, but the sales persons also mentioned that to read the documents carefully before making a purchase. The company had acted impartially and provided all sort of information. The company remains honest and trustworthy as they have pointed out that if a person must be ready to take control of the car even while the car is in self-drive mode.



However, as the fault is also made on the side of the company as the engineer of the company made the mistake but the whole company cannot be held responsible for that neither all units that the corporation has sold are defective. However, McKendrick (2014) mentioned that in the case of the person where the damaged has happened, a refund could be made only after right probe on that issue. However, in the case of another customer, the company wants to mention that all the cars are checked thoroughly, and if the customers will follow the instructions, there is no chance of any damage. Further, all the customers have signed the agreement after reading the conditions carefully, thus if they claim the money back, it will be the breach of contract on behalf of them and the company reserves all the rights to sue them based on willing deformity of the company's image.

However, BetterCar Ltd ("BC") wants to assure not only the existing customers in Australia but also the customers expecting the car in India, China and other countries. The target is to make all the cars of the company are thoroughly checked and free from all sorts of issues thus one can buy the vehicle without any hesitation.

The Company BetterCar Ltd ("BC") are committed to providing best of the cars with apt technologies to satisfy the needs of their customers.

Thanks.



Reference:**Books**

McKendrick, E., (2014). *Contract law: text, cases, and materials*. Oxford: Oxford University Press (UK).

Weatherill, S (2013). *EU consumer law and policy*. London: Edward Elgar Publishing.

Journals

Bowles, W., Boetto, H., Jones, P. and McKinnon, J., (2016). "Is social work really greening? Exploring the place of sustainability and environment in social work codes of ethics.", *International Social Work*, 5(3) pp. 20-87.

Christensen, S. and Duncan, W.D., (2016). "To tender or not to tender: When is a party ready, willing and able for electronic settlement?", *Australian Property Law Journal*, 25(1), pp.22-39.

O'leary, P., Tsui, M.S. and Ruch, G., (2013). "The boundaries of the social work relationship revisited: Towards a connected, inclusive and dynamic conceptualisation". *British Journal of Social Work*, 43(1), pp.135-153.

Romani, L. and Szkudlarek, B., (2014). "The struggles of the interculturalists: Professional ethical identity and early stages of codes of ethics development.", *Journal of Business Ethics*, 119(2), pp.173-191.

Wang, L., Law, R., Hung, K. and Guillet, B.D., (2014). "Consumer trust in tourism and hospitality: A review of the literature", *Journal of Hospitality and Tourism Management*, 21, pp.1-9.

Websites

Abc.net.au (2016). Available at:
<http://www.abc.net.au/4corners/stories/2016/02/29/4413666.htm> [Accessed on: 27th August, 2016].



Consumerlaw.gov.au (2016). Available at: <http://consumerlaw.gov.au/> [Accessed On: 27th August, 2016]

Engineersaustralia.org.au (2016). Sites/default/files/shado/About%20Us/Overview/Governance Available at: www.engineersaustralia.org.au/sites/default/files/shado/About%20Us/Overview/Governance/codeofethics2010.pdf. [Accessed On: 27th August, 2016].

