

E-COMMERCE

WHAT BUSINESS OWNERS MISS



Prepared by

**Jackie
Atchison,
Principal
Lawyer.
Founder**

What Most E-Commerce Owners Overlook

Hidden Legal Gaps in Online Stores

Running an online store means handling legal requirements that aren't always obvious. Most e-commerce business owners focus on products, marketing, and customer service—the visible parts of their business. The legal foundations often get addressed later, sometimes after problems have already emerged.

This guide identifies five legal gaps that commonly get missed in e-commerce operations. These aren't obscure technicalities. They're practical issues that affect how your store operates and how you handle situations when things don't go smoothly.

Understanding these gaps helps you see where your current setup might need attention and what to address as you build stronger legal foundations for your online business.

Five Hidden Legal Gaps

OVERLOOKED CONSIDERATION 1

Your Automated Systems Contradict Your Terms

Your website Terms of Sale say you accept returns within 30 days. Your email marketing platform sends a post-purchase email saying "all sales are final." Your Shopify order confirmation includes a default line about no refunds. Your customer reads three different messages about the same thing.

This happens because different systems generate different messages, often using templates you set up once and haven't reviewed. Your payment processor, your e-commerce platform, your email software, and your website might all be sending different information about the same policies.

When a customer wants to return something, which message do they rely on? If they filed a chargeback citing the "no refunds" email, your terms saying you accept returns won't help much. The contradiction weakens your position.

The consequence: *Chargebacks you could have avoided, customer confusion leading to disputes, and terms that don't actually protect you because your own systems contradict them.*

The reality: *Every automated message your store sends—order confirmations, shipping notifications, payment receipts, review requests—needs to align with your legal terms. This requires reviewing templates across all platforms and ensuring consistency.*

OVERLOOKED CONSIDERATION 2

Your Terms Don't Address Digital Product Complexities

If you sell digital products—downloads, online courses, software, templates, subscriptions—standard physical product terms don't work. Digital products can't be "returned" once accessed. You can't verify whether someone has deleted a download. Usage can't be monitored easily.

Australian Consumer Law provides some flexibility for digital products, but you need to clearly define what you mean by "access" and "use." Does downloading constitute full access? What if the customer accessed it once but claims it was defective? How do you verify defects in digital products?

Many e-commerce stores use generic refund terms that reference "original condition" and "with tags attached"—language that makes no sense for digital products. This creates ambiguity about what refund rights actually apply.

The consequence: *Disputes about whether refunds apply, difficulty enforcing any access limits, and customers claiming refunds after they've fully used or accessed digital content.*

The reality: *Digital products need specific terms covering when access begins, what constitutes "use," how you verify defects, and under what circumstances refunds apply. These terms should work within Australian Consumer Law while protecting your business from abuse.*

OVERLOOKED CONSIDERATION 3

Platform Terms Override Yours (And You Haven't Read Them)

When you set up your Shopify, WooCommerce, or BigCommerce store, you agreed to their merchant terms. Those terms impose obligations on you that might conflict with what you've told customers in your own Terms of Sale.

Your payment processor—Stripe, PayPal, Square—also has merchant terms. They have specific requirements about how you handle refunds, disputes, and chargebacks. Some platforms require certain policies to be in place. Some restrict what you can say about liability or refunds.

Most business owners never read these platform terms in detail. They click "I agree" during setup and move on. Later, when a customer dispute arises, they discover their own terms promised something the platform doesn't allow, or missed something the platform requires.

The consequence: Making commitments to customers you can't honour because your payment processor or platform won't support them. Creating conflicts between what you promise and what your systems can actually deliver.

The reality: Your terms need to work within the framework of your platform and payment processor requirements. This means reading those merchant terms and ensuring your policies don't conflict with obligations these platforms impose.

OVERLOOKED CONSIDERATION 4

International Sales Create Jurisdiction Confusion

You're selling from Australia to customers worldwide. A customer in the UK has a dispute. Which country's consumer protection laws apply? Which country's courts have jurisdiction? Your terms don't specify.

Different countries have different consumer protection regimes. The UK has different refund rights than Australia. The EU has mandatory cooling-off periods for distance sales. The US has state-specific consumer laws. If you're selling internationally without addressing jurisdiction, you've left a significant gap.

Even if you specify Australian law governs, that might not prevent overseas customers from bringing claims under their local consumer protection laws. International sales add legal complexity that standard Australian terms don't address.

The consequence: *Exposure to consumer claims under foreign laws you're not familiar with, difficulty enforcing your terms when customers are overseas, and potential conflicts between different countries' mandatory consumer rights.*

The reality: *If you're selling internationally, your terms should specify which jurisdiction's laws apply and address how you handle international disputes. You might need different refund policies for different markets, or decide to limit sales to specific countries.*

OVERLOOKED CONSIDERATION 5

Your Review and Testimonial Practices Risk Misleading Conduct

You display customer reviews on your product pages. You've noticed a few negative reviews, so you removed them—they were harsh and you felt they weren't representative. You offer a discount code for customers who leave reviews. You edited a testimonial to make it more positive while keeping the customer's name.

Australian Consumer Law prohibits misleading conduct, which includes selectively displaying only positive reviews, editing reviews to remove legitimate criticism, or failing to disclose incentives for reviews. These practices happen frequently in e-commerce because business owners want their products to look good.

The line isn't always obvious. You can moderate for abusive language or spam. You can remove reviews that violate your policies. But you can't remove negative reviews simply because they're negative, and you can't present an artificially positive picture that misleads potential customers.

The consequence: Potential enforcement action from the ACCC for misleading conduct, loss of customer trust if your review practices are discovered, and exposure to claims from customers who purchased based on misleading reviews.

The reality: You need clear, consistent policies for how you handle reviews. If you moderate, be transparent about your criteria. If you incentivise reviews, disclose it clearly. Display reviews fairly, including negative feedback that's legitimate criticism rather than abuse.

IMPORTANT NOTE

This guide highlights common gaps in e-commerce legal documentation and practices. Every online store operates differently—your platform, products, customer base, and business model create specific considerations that generic terms can't address. These insights are for educational purposes. Your situation requires professional review to ensure your legal foundations properly protect your business and comply with applicable laws.

READY TO ADDRESS YOUR E-COMMERCE LEGAL GAPS?

Understanding where gaps exist is the first step. The next step is working through what your specific online store needs based on how you actually operate.

I work with e-commerce businesses to review their legal documentation and identify where automated systems, platform requirements, and business practices create legal risk. We can work together to get your terms, policies, and processes aligned with your operational reality and properly protecting your business.

If you're running an online store and recognise any of these gaps in your current setup, let's discuss how to address them. Strong legal foundations make disputes easier to resolve, reduce chargeback vulnerability, and support confidence in how you're operating your business.

Ready to discuss your e-commerce legal requirements? Contact Jackie Atchison at LexAlia Property & Commercial Law to explore how your specific situation can be addressed effectively.

LexAlia Property & Commercial Law | Northern Beaches, Sydney

Email: hello@lexalia.au | Web: lexalia.au

Serving NSW for property matters | Australia-wide for business law