

AVOIDING DISPUTES

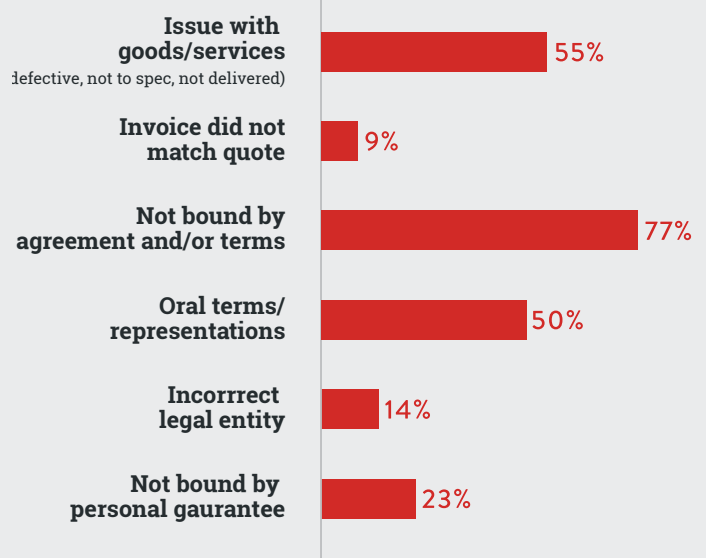
Disputed money claims can be a real source of pain for credit providers – whether trade creditors or financiers.

Not only do they result in a higher chance of write off, they usually carry with them the prospect of legal costs, which, if not effectively managed, can diminish at the amount of net return on the claim.

A number of effective strategies can be implemented to both avoid disputes from arising and dramatically improve the chances of resolving disputes quickly and cost effectively.

A recent analysis of data from the disputed claims in trade credit, across a broad range of industries and geographical regions in Australia, identified 6 common categories of dispute.

COMMON CAUSES OF DISPUTES



*NB, more than one category of dispute was raised in most matters.

Interestingly the most common causes of dispute did not relate to the goods or services actually supplied but, instead, the underlying contractual terms. The following tools and strategies can be utilised to both avoid contract related issues from arising and make it significantly easier to resolve disputes when they arise.

1. Self-contained credit agreement

An effectively drafted credit agreement is the single most effective tool in avoiding disputes, resolving disputed claims and ultimately securing payment. An effective credit agreement is self-contained and incorporates the credit application, terms and conditions of trade and personal guarantee.

2. Ensure your terms are effective

If you are going to the effort of having a client sign off on a credit agreement, it's best to make sure that it is worth the paper it's written on. The incorporation of fundamental terms including entire agreement, variation only in writing and non-release of personal guarantee clauses often means the difference between a clearly enforceable claim and a write-off.

3. Authenticate the parties' details

A significant number of disputes could be avoided if credit teams undertook a more rigorous review of the credit application documents. Misdescription and ambiguity as to customer entity details is a common avoidable issue, as is the inability to prove proper execution of the personal guarantee.

Further assistance

If your credit application documents haven't been recently reviewed, this may be the most obvious opportunity to avoid future disputed claims. Similarly, an internal review of your credit assessment and approval processes may be a relatively simple and cost effective way of avoiding future disputes.

NCI and Results Legal can offer you a fixed fee credit agreement package designed to avoid disputes and maximise recovery. For more information or assistance, please contact NCI or Results Legal.