

# AUSTRALIAN JOURNAL OF COMPETITION AND CONSUMER LAW

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## EDITORIAL

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## ARTICLES

### **Deceptive Domain Names – Misconduct through Misnomers – *Adrian Coorey***

The purpose of this article is to raise awareness of issues associated with misleading or deceptive conduct under the Australian Consumer Law and domain names. The article provides a brief discussion on some key decisions on misleading or deceptive conduct in relation to domain names containing similar wording and/or similar corresponding websites. It also discusses what a domain name is, and what characteristics and functions it serves to users, and also explores several different types of cybercrime, including cybersquatting of domain names. The article concludes with some short tips on how to minimise the risks of being engaged in misleading or deceptive conduct in relation to domain names. ....	4
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### **Merger Authorisation Processes in Australia in Light of the Tabcorp Decision (It's Hip to Be Square – Hipster Economics and Antitrust) – *Dave Poddar***

The concept of public benefits (as well as public detriments) under Australia's competition legislation is amorphous. The recent Tabcorp Full Federal Court and the Australian Competition Tribunal (Tribunal) decisions (collectively referred to as the Tabcorp Matter), which considered the competition and public benefit arguments associated with merger authorisation, bring into stark focus the current debate in the United States as to so-called "Hipster Economics". Hipster Economics seeks to bring into antitrust cases broader social issues such as those contemplated by the concept of "public benefits". Broader social issues are relevant under Australian competition law as a result of the possibility of considering public benefits and detriments under our "modified total welfare test". This article will consider these issues in light of the recent changes to the merger authorisation process in the <i>Competition and Consumer Act 2010</i> (Cth) (CCA) and the Tabcorp Matter. ....	13
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### **Commercial Reality: Its Place in the Authorisation of Mergers – *Ketki Kotwal***

This article discusses the relevant legislation (past and current), in relation to the granting of an authorisation in the context of the commercial reality the parties operate in. With reference to the case law, the article discusses the aspects that a court will consider when construing the commercial reality of a particular business or industry and shows how these factors must be considered alongside the legislation when deciding if authorisation is appropriate. The article will aim to convey that courts are obliged to look beyond the legislation when choosing whether or not to authorise proposed mergers with the overall goal being not only to foster the competitive process, but also to ensure welfare of affected individuals. ....	25
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CONSUMER CONCERNS

**Information Asymmetries in Telecommunications: The Consumer and the Lemon Orchard** – *Gareth Downing*

Consumers in the telecommunications market often face significant detriment as a result of systemic information asymmetries that diminish their capacity to engage with contracts, manage their privacy and purchase services. This report briefly outlines the fundamental problem of information asymmetries, the factors that drive their persistence and how recent efforts in the telecommunications marketplace are likely to lead to better outcomes for consumers. ....	65
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