

# AUSTRALIAN JOURNAL OF COMPETITION AND CONSUMER LAW

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## EDITORIAL

**How should the Passengers on the Clapham Omnibus act Today?** ..... 3

## ARTICLES

### **Dealing with Multi-sided Platforms and the Digital Economy – Rod Sims**

This article addresses some of the significant challenges the ACCC faces in implementing competition and consumer law. In particular it looks at the growing expectations of what competition and consumer law can achieve, as well as the challenges of analysing the competitive effects of conduct of multi-sided platforms, and in implementing merger law for digital platforms and the Commission's thinking on these matters. .... 6

### **Avoiding Liability under the Competition and Consumer Act 2010 (Cth) – Dyson Heydon**

Can one party to a contract exclude its liability to another party to that contract for misleading or deceptive conduct? The article discusses authorities throwing up instances where a contractual clause may negate the allegedly misleading or deceptive character of conduct; or may negate the first contracting party's responsibility for the conduct of another person; or may negate reliance. The article also discusses the oft-repeated contention that the statutes prohibiting misleading or deceptive conduct are public policy statutes, and that it is necessary to treat clauses excluding them as illegal in that they are against public policy. The article argues that the reasoning underlying these ideas has never been fully or critically analysed, and that if it were the outcome could be different. .... 13

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