

# AUSTRALIAN BUSINESS LAW REVIEW

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EDITORIAL – *General Editor: Michael Terceiro* ..... 89

## ARTICLES

**The Environmental Social Governance of Animal Welfare: A Review of Current Practice in Responsible Investment in Australia** – *Christine Parker, Amelia Cornish and Laura Boehm*

“Animal cruelty” is the single top issue Australians want to avoid in their investments. As such, animal welfare is an environmental social governance issue that poses significant investment risk due to its capacity to impact on the legal, social and ethical licenses required to operate a business. This article reports the findings of an empirical study, which found that, of 35 asset managers and superannuation funds benchmarked as best practice in responsible investment, only 13 reported considering animal welfare in any way. Given the significance of animal agriculture to the Australian economy, the article suggests some strategies to raise awareness and skills in relation to animal welfare among the responsible investment community, such as the explicit inclusion of animal welfare in Principle 7 of the ASX’s Corporate Governance Principles. .... 91

**Australia’s Online Privacy Bill: Three Lessons from Europe** – *Mia Trzeciński*

After many years of calls to reform, the Australian Government is undertaking a review of the *Privacy Act 1988* (Cth). Influenced by the General Data Protection Regulation in the European Union, the Attorney-General’s Department has released an exposure draft of the Online Privacy Bill that proposes to strengthen requirements for platforms to provide notice and obtain consent from individuals before processing their personal information. However, in doing so, it overlooks the structural conditions that shape the platform economy, including significant power disparities between platforms and users, and the risk of data externalities harming third parties. A close analysis of recent decisions by European regulators reveals both the limitations of notice and consent in practice and the problems the Bill will likely encounter if passed. As such, this article suggests Australian lawmakers should develop an alternative framework for regulating large platforms. .... 106

**A Critical Appraisal of the “Media Safe Harbour” in the Australian Consumer Law** – *Bill Swannie*

Since 1984, commercial information providers (essentially, media organisations) have been exempt from laws prohibiting misleading or deceptive conduct. This article examines the background, scope and rationale for this significant gap in the consumer protection provisions in the *Australian Consumer Law* (ACL), and compares the exemption with other areas of speech regulation. By examining defences in defamation law, a rational structure for balancing free speech considerations with other interests is revealed. Although media freedoms are important, the media exemption in the ACL is uncertain in its operation

and provides a blanket exemption rather than the context-sensitive approach adopted in defamation law. This article concludes that the media exemption requires substantial reform, specifically by granting immunity only when the publication involves a matter of public interest and is done reasonably in all the circumstances. .... 126

BOOK REVIEW – *Editor: Nicholas Felstead*

**Corporate Attribution in Private Law, by Rachel Leow** – *Reviewed by Nicholas Felstead* ..... 144