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EDITORIAL

There Is More to This Contract Than Meets the Eye – Especially since It Was Not Read 3

ARTICLES

Though Much Has Been Done, Much Remains to Be Done – Gina Cass-Gottlieb

The Australian Competition and Consumer Commission’s (ACCC) economy-wide, complementary remits for the promotion of competition and consumer protection put it in a good position to respond to emerging issues as Australia and the world navigate generational shifts in their economies and societies. The move to a low-emissions future, the continued expansion of the digital economy, the advance in new technologies such as Artificial Intelligence and an increasing demand for care and support services are creating new markets, new opportunities, and new considerations for agencies like the ACCC. Competition and consumer protection policy has a key role in ensuring these economic transitions proceed in a way that is effective, efficient and fair. This article focuses on the key areas of ACCC’s compliance and enforcement work that are responsive to these shifts and challenges, and provides an update on the Commission’s merger reform proposals. 5

The Proposed “Designated” Complaint Function under the ACL – More Strength to a Consumer’s Bow – Leanne Wiseman and Kanchana Kariyawasam

The difficulties that Australian consumers experience when seeking remedies for faulty products under the *Australian Consumer Law* (ACL) are well documented. Interestingly, the Productivity Commission, when examining barriers to repairability in their 2021 “Right to Repair” Inquiry, also highlighted the challenges that face consumers in relation to accessing remedies for breach of consumer guarantees. One of the recommendations suggested that the introduction of a “super complaints” mechanism, where designated consumer groups can lodge complaints on consumer issues (such as repair) would go some way towards making the ACL remedies more available to consumers. In 2023, the Federal Government, as part of its Better Competition commitment, vowed to establish a “designated complaints” function within the ACCC. This article discusses the evolution of the “super complaints” mechanism. In so doing, it compares this proposal with the United Kingdom’s complaint scheme to provide insights into the potential strengths and weaknesses of this approach. 12

Bid Rigging on the Radar! – Adrian Coorey

Bid rigging is one of four types of cartel conduct in Australia. It is considered an egregious form of anti-competitive conduct. Over the past few years, the Australian Competition and Consumer Commission (ACCC) has commenced proceedings against a number of

corporate and individual respondents for engaging in bid rigging. This article focuses on a discussion of three of those decisions, namely *ACCC v Delta Building Automation Pty Ltd*, *ACCC v Ashton Raggatt McDougall Pty Ltd* and *ACCC v First Class Slate Roofing Pty Ltd*. The decisions, and many others in the past, play a vital role in sending a strong message to the public that the ACCC takes bid rigging seriously and will commence proceedings even in circumstances where there is an attempt, or attempt to induce others, to bid rig. 26

ADMINISTRATION AND COMPETITION POLICY – *Editor: Dr Luke Wainscoat*

The Threat to Competition from Regulating Bargaining Power – *Dr Luke Wainscoat, Zoe Odgers and Ashmit Vyas* 37

CONSUMER PROTECTION – *Editor: Bernard McCabe*

Analysing and Characterising Representations That Are Said to Mislead – *Aaron Wallender* 51

TELECOMMUNICATIONS – *Editor: Professor Niloufer Selvadurai*

A Clash of Reviews? Digital Platform Services Inquiry Interim Report 7, 2023 – *Holly Raiche* 56

CASE NOTE – *Editor: Christopher Hodgekiss SC*

Beyond All Proportion: High Court in ABCC v Pattinson Affirms Primacy of Deterrence in Fixing Civil Penalties – *Simon Muys and Owen Fischbein* 60

CONSUMER CONCERNS

Mind Your Business: Re-balancing Privacy in Consumer Markets – *Dr Rafi Alam* 70

REPORT FROM ASIA – *Editor: Andrew Christopher*

New Sustainability Guidelines in Japan – *Liam Nieuwland* 75

REPORT FROM EUROPE – *Editor: Tom Pick*

The Digital Markets Act – An Overview of Practical Aspects and Recent Developments – *Tom S Pick and Britt Gerritsen* 79