

# AUSTRALIAN BUSINESS LAW REVIEW

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EDITORIAL – *General Editor: Michael Terceiro* ..... 113

## ARTICLES

### **Legal Professional Privilege in a Corporate Crisis – The Optus Data Breach** – *Michael Legg*

The Optus data breach illustrates the challenges in responding to a modern corporate crisis while also considering legal ramifications and the ability to rely on legal professional privilege. As part of the response to the data breach Optus obtained a forensic investigation report into the breach. The article addresses why Optus failed to establish legal professional privilege over the report and highlights the challenges in establishing the necessary dominant purpose in the context of a corporate crisis, such as stakeholder management imperatives and the involvement of multiple levels of management and the board of directors. The article also suggests possible approaches to securing legal professional privilege, including clarity as to the role of lawyers and legal professional privilege ahead of a crisis, not during one. .... 116

### **Law and Economic Agency of Africans in Australia** – *Dominic Npoanlari Dagbanja, Farida Fozdar and David Mickler*

Recent African migration to Australia provides opportunities for trade and investment. However, little is known about the impact of legal frameworks on such opportunities. Australian laws confer rights and liberties on people under its jurisdiction, but constrain economic agency in some respects. First, there is very limited scope of international legal protection for Africans in Australia because Australia has limited international economic treaties with African countries. Second, Africans on temporary visas have limited economic agency in terms of businesses activities they can engage in. Third, but not least, the lack of recognition of educational qualifications and English language proficiency requirements constitute significant barriers to entering professions. These legislative constraints limit trade, investment and employment opportunities, and effective use of African migrants’ knowledge and skills. This article lays the foundation for subsequent scholarship and policy frameworks on law and international economic relations between Africa and Australia. .... 128

### **Information Disclosure and Insurance – An Evolving Balancing Act** – *Julie-Anne Tarr*

The integration of digital technologies, Big Data, and AI-driven analytics is transforming insurance markets, enabling highly individualised risk assessment and personalised underwriting. While offering significant efficiencies, these developments intensify longstanding concerns about information asymmetry, data integrity, and equitable access to coverage. In Australia, as insurers increasingly rely on algorithmic tools, legal and normative questions surrounding disclosure and transparency have become more pressing. The opacity of data-driven underwriting complicates the insured’s understanding of

disclosure obligations, challenging traditional legal frameworks rooted in voluntary information exchange. This article examines the evolution of Australia’s disclosure regime in light of these technological shifts, assessing whether it continues to strike an appropriate balance between insurers’ informational needs and the protection of insureds in a rapidly digitising insurance landscape. .... 143

BOOK REVIEW – *Editor: Nicholas Felstead*

**Australian Competition Law: A Comprehensive Guide Volume 1, by Adrian Coorey –**  
*Reviewed by Nicholas Felstead* ..... 151