

AUSTRALIAN BUSINESS LAW REVIEW

Volume 36, Number 5

October 2008

EDITORIAL 325

ARTICLES

Time and the dimensions of substantiality – *Tom Leuner*

This article concerns issues relating to timeframes and the underlying requirements of the substantial lessening of competition legal standard. The first part examines several approaches to finding the appropriate timeframe for assessing substitution possibilities when defining markets. A new approach is suggested that is derived from an analysis of the duration requirement of substantiality – the requirement that competition effects must have a certain expected duration to be indicative of a breach. The second part examines the duration dimension of substantiality further, and then considers other dimensions of substantiality, including size of the effect and probability of the effect. 327

Compulsory licensing under the Patents Act 1990 to remedy anticompetitive conduct under the Trade Practices Act 1974 – *Charles Lawson*

The *Intellectual Property Laws Amendment Act 2006* (Cth) amended the *Patents Act 1990* (Cth) by providing a specific remedy for compulsory licensing under the *Patents Act* for a breach of competition laws, such as Pt IV of the *Trade Practices Act 1974* (Cth). This article examines the evolution of this amendment and its likely operation. The article concludes that the hurdles for this compulsory licensing scheme under the *Patents Act* seem impractical when the same, or an arguably superior, remedy is already available under the *Trade Practices Act*. 369

MEDIA AND TELECOMMUNICATIONS – *Dr Martyn Taylor*

Regulation vs investment: Striking an appropriate balance – The theory 384

COMPETITION LAW AND MARKET – *Stephen Corones*

Telstra Corp Ltd v Commonwealth: Australian Telecommunications History and its Implications for Consumers of Services Regulated under Pt XIC of the TPA 395

Guidelines for Contributors

Submission and licence agreement instructions

All contributions to the journal are welcome and should be sent, with a signed licence agreement, to the Production Editor, *Australian Business Law Review*, Lawbook Co., PO Box 3502, Rozelle, NSW 2039 (mail), 100 Harris St, Pyrmont, NSW 2009 (courier) or by email to ablr@thomson.com.au, for forwarding to the Editor. Licence agreements can be downloaded via the internet at http://www.lawbookco.com.au/authorsupport/d_authorJournals.asp. If you submit your contribution via email, please confirm that you have printed, signed and mailed the licence agreement to the attention of the Production Editor at the mailing address noted above.

Letters to the Editor

By submitting a letter to the editor of this journal for publication, you agree that Thomson Legal & Regulatory Limited, trading as Lawbook Co., may edit and has the right to, and may license third parties to, reproduce in electronic form and communicate the letter.

Manuscript

- Manuscript must be original, unpublished work that has not been submitted for publication elsewhere.
- Personal details (name, qualifications, position) for publication and a delivery address, email address and phone number must be included with the manuscript.
- Manuscript must be submitted electronically via email or on disk in Microsoft Word format.
- Manuscript should not exceed 10,000 words for articles or 1,500-2,000 words for section commentary or book reviews. An abstract of 100-150 words is to be submitted with article manuscripts.
- Proof pages will be sent to contributors. Authors are responsible for the accuracy of case names, citations and other references. Excessive changes to the text cannot be accommodated.
- This journal complies with the Higher Education Research Data Collection (HERDC) Specifications for peer review. Each article is, prior to publication, reviewed in its entirety by a suitably qualified expert who is independent of the author.

Style

1. **Levels of headings should be clearly indicated (no more than four levels).**
2. **Cases:**
 - Case citation follows case name. Where a case is cited in the text, the citation should follow immediately rather than as a footnote. Give at least two and preferably all available citations, the first listed being the authorised reference.
 - Australian citations should appear in the following order: authorised series; Lawbook Co./ATP series; other company series (ie CCH, Butterworths); media neutral citation.
 - “At” references should only refer to the best available citation, eg *Mabo v Queensland [No 2]* (1992) 175 CLR 1 at 34; 66 ALJR 408; 107 ALR 1.
 - Where only a media neutral citation is available, “at” references should be to paragraph, eg *YG v Minister for Community Services* [2002] NSWCA 247 at [19].
 - For international cases best references only should be included.
3. **Legislation should be cited as follows:**
Trade Practices Act 1974 (Cth), s 51AC. The full citation should be repeated in footnotes.
4. **Books should be cited as follows:**
Macken JJ, O’Grady P, Sappideen C and Warburton G, *The Law of Employment* (5th ed, Lawbook Co., 2002) p 55.
 - In footnotes do not use *ibid* or *op cit*. The following style is preferred:
 4. Austin RP, “Constructive Trusts” in Finn PD (ed), *Essays in Equity* (Law Book Co, 1985).
 5. Austin, n 4, p 56.
5. **Journals should be cited as follows:**
Odgers S, “Police Interrogation: A Decade of Legal Development” (1990) 14 Crim LJ 220.
Wherever possible use official abbreviations not the full name for journal titles.
 - In footnotes do not use *ibid* or *op cit*. The following style is preferred:
 6. Sheehy EA, Stubbs J and Tolmie J, “Defending Battered Women on Trial: The Battered Woman Syndrome and its Limitations” (1992) 16 Crim LJ 220.
 7. Sheehy et al, n 6 at 221.
6. **Internet references should be cited as follows:**
Ricketson S, *The Law of Intellectual Property: Copyright, Designs and Confidential Information* (Lawbook Co., subscription service) at [16.340], <http://subscriber.lawbookco.com.au> viewed 25 June 2002. Underline the URL and include the date the document was viewed.

For further information visit the Lawbook Co. website at <http://www.lawbookco.com.au> or contact the Production Editor.

SUBSCRIPTION INFORMATION

The *Australian Business Law Review* comprises six parts a year.

Customer service and sales inquiries:
Tel: 1300 304 195 Fax: 1300 304 196
Web: www.thomsonreuters.com.au
Email: LTA.Service@thomsonreuters.com

Editorial inquiries:
Tel: (02) 8587 7000

HEAD OFFICE
100 Harris Street PYRMONT NSW 2009
Tel: (02) 8587 7000 Fax: (02) 8587 7100



THOMSON REUTERS

©Thomson Reuters (Professional) Australia Limited ABN 64 058 914 668
Lawbook Co. Published in Sydney

ISSN 0310-1053

Typeset by Thomson Reuters (Professional) Australia Limited, Pyrmont, NSW

Printed by Ligare Pty Ltd, Riverwood, NSW