

AUSTRALIAN BUSINESS LAW REVIEW

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ARTICLES

Contemporary approaches to market definition: Taking account of international markets in Australian competition law – *Daniel Clarry*

The scope of Australian competition law is limited, in a geographic sense, to regulating markets that are definable “in Australia”. In economic reality, however, international markets not only exist but the liberalisation of international trade and the interdependence of national economies are reliant upon the existence of those markets. Mindful of the inherent ambiguity in the phrase “market in Australia”, this article considers the legislative and judicial history of markets in Australian competition law and how foreign antitrust regulators have approached the global challenge of international markets and regulating competition in those markets. The article is directed toward resolving, and stimulating debate on, whether Australian competition law regulates international markets at present and, if not, makes recommendations to enhance the regulation of competition in those markets. 143

The elements of a prohibition on unfair terms in consumer contracts – *Jeannie Marie Paterson*

The Federal Government is in the process of enacting a new “Australian Consumer Law”. Included in these reforms are new provisions regulating unfair terms in standard-form consumer contracts. This article discusses the elements of the definition of an unfair term with reference to similar legislation in the United Kingdom and Victoria. The article argues that, essentially, the provisions regulating unfair terms in standard form consumer contracts requires terms that are balanced and transparent in their operation. Examples of terms vulnerable to challenge as unfair are considered in order to illustrate the approach. 184

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