

# AUSTRALIAN BUSINESS LAW REVIEW

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## ARTICLES

**Notification of data breaches in Australia: Implications for airlines** – *Paul von Nessen and Gary Heilbronn*

The unauthorised access to personal data and its possible misuse has resulted in the vast majority of American states to require notification by data collectors to individuals whose information has been breached in order both to mitigate damages and to expose those with poor data security systems to public disclosure. The Australian Law Reform Commission's review of the Privacy Act 1988 (Cth) has proposed that such statute be enacted for Australia. This article considers these developments and the potential difficulty for airlines which might arise from being required to comply with such a generic data notification statute as presently formulated. .... 387

**The Aristocrat Leisure Ltd shareholder class action settlement** – *Michael Legg*

The Aristocrat Leisure Ltd class action was commenced in 2004 and settled in 2008 for \$144.5 million, making the Aristocrat class action the largest shareholder class action payout in Australian history. This article explains the significance of the Aristocrat class action proceedings and settlement. The proceedings elucidate the issues of causation and the calculation of damages in relation to the continuous disclosure requirements and misleading or deceptive conduct prohibitions in the class action context. The judgments on settlement provide important guidance on the closing of the class in an opt out class action and illustrate the need to guard against conflicts of interest. The outcome of the case also impacts upon the likelihood of shareholders seeking compensation for misrepresentations or non-disclosure in the future, corporate governance and the costs faced by Corporate Australia. .... 399

**Broad-based employee share ownership in Australian listed companies: An empirical analysis** – *Ingrid Landau, Richard Mitchell, Ann O'Connell, Ian Ramsay and Shelley Marshall*

The Treasurer's 2009-2010 Federal Budget announcement of proposed reforms to the tax treatment of employee share ownership plans (ESOPs) prompted vocal criticism from the business community and trade unions and served to highlight the widespread use of ESOPs by Australian businesses. Yet despite receiving sporadic attention from public policy makers over the past decade or so, employee share ownership in Australia has been the subject of little empirical investigation. This article presents findings from a survey of employee share ownership practice in companies listed on the Australian Securities Exchange. It provides a detailed account of broad-based ESOPs: that is, plans open to a majority of employees within the company. The authors consider how the regulatory framework in taxation and corporate law is impacting upon the decision by companies to implement ESOPs and the design of their plans; and discuss company views on the adequacy of the current regulatory framework. .... 412

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    - <sup>1</sup> Hayton D, “Unique Rules for the Unique Institution, The Trust” in Degeling S and Edelman J (eds), *Equity in Commercial Law* (Lawbook Co, Sydney, 2005) p 284.
    - <sup>2</sup> Hayton, n 1, p 286.
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    - <sup>3</sup> Trindade R and Smith R, “Modernising Australian Merger Analysis” (2007) 35 ABLR 358.
    - <sup>4</sup> Trindade and Smith, n 3 at 358–359.
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