

# AUSTRALIAN BUSINESS LAW REVIEW

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## ARTICLES

### **Mapping the terrain: The last decade of payday lending in Australia – Sally Andersen**

This article explores the payday lending industry in Australia, focusing on Victoria. It examines who payday borrowers are, the adverse features of payday lending and why payday lending is so widespread in Australia today. It investigates the course of payday lending regulation from 2000 under the *Uniform Consumer Credit Code 1994* to 2009, when the *National Consumer Credit Protection Act 2009* (Cth) was passed. This article focuses on how the Code has regulated the industry and the amendments that have been made to the Code in attempts to achieve a fairer market place for payday borrowers. It examines various reports researching the payday lending industry and explores the recommendations made. Finally, it considers the recent Act bringing the payday lending industry under Commonwealth control, and how the industry will be affected. ....

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### **The Competition and Consumer Amendment Bill (No 1) 2011 (Exposure Draft): A problematic attempt to prohibit information disclosure – Brent Fisse and Caron Beaton-Wells**

The *Competition and Consumer Amendment Bill (No 1) 2011* (Exposure Draft) seeks to prohibit anticompetitive disclosure of information by one competitor to another. The proposed prohibition under s 44ZZW seeks to ban the private disclosure of price-related information. The proposed prohibition under s 44ZZX seeks to ban the public or private disclosure of price-related and certain other information for the purpose of substantially lessening competition in a market. Neither prohibition has a cogent rationale. As a result, both suffer from dire overreach and are likely to produce unintended consequences. The most fundamental flaw is that the proposed prohibitions focus on information disclosure whereas the relevant economic concern is not information disclosure of itself but the facilitation of coordinated conduct by competitors. Another serious flaw is that the proposed exceptions to the prohibitions are too limited in scope. There is also a potential loophole, namely the conceivable use of continuous disclosure by public-listed companies as an avenue for getting around the prohibition against public disclosure of information under s 44ZZX. ....

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