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Australian competition law still trips over barriers to entry – Paulina Fishman

The concept of barriers to entry is an important consideration in many Australian competition decisions. Technical and divisive in economics, this borrowed concept is especially muddled in the competition law context. There is an incontrovertible need for it to be explained, delineated and clarified. To that end, this article expounds the nature, effect, and theoretical foundations of barriers to entry; scrutinises particular examples of entry barriers (both structural and strategic); and broaches a number of related concepts. 89

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Has the Australian Competition and Consumer Commission (ACCC) become too big and unwieldy as a single agency? Is there any merit in breaking up the ACCC into specialist, stand-alone bodies? While it is certainly good practice to regularly review Australian's competition and consumer laws, it is also good practice to regularly review the operation of the ACCC and to assess whether its resources are being used most effectively. Ultimately, no government agency should be above independent scrutiny, and the ACCC is no exception. 109

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