

# AUSTRALIAN JOURNAL OF COMPETITION AND CONSUMER LAW

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## EDITORIAL

**By the Way, the Concept of “Indirect Causation” has Expanded** ..... 195

## ARTICLES

**Australia’s Protected Cartel Information Scheme: Has the Right Balance Been Struck?** – *Holly Yang Cao*

Unlike the United States, private enforcement actions against cartel conduct in Australia have been rare. This is because private litigants face a number of hurdles in initiating cartel cases, one of which is lack of access to documentation and evidence that will make out their claims in court. The interests of private litigants and the Australian Competition and Consumer Commission (ACCC) conflict in this regard. In particular, the Protected Cartel Information (PCI) scheme under the *Competition and Consumer Act 2010* (Cth) was implemented in response to the ACCC’s concerns. By undertaking a comparative study and by assessing the strengths and weaknesses of the arguments of both sides, this article argues that the PCI scheme too heavily favours the interests of the ACCC at the expense of private litigants. This is problematic given the sub-optimal level of private enforcement actions against cartels in Australia, particularly in light of the fact that private enforcement has the potential to increase the rate of detection and deterrence of cartel conduct. .... 197

**The ACCC, the Internet and Extraterritorial Injunctions** – *Adrian Coorey*

It appears that Australian courts have adopted a positive attitude in granting extraterritorial injunctions in the context of the *Australian Consumer Law* and conduct over the internet. This is particularly so for cases concerning misleading or deceptive conduct. In order to facilitate the effective enforcement of the *Australian Consumer Law*, Australian courts have, on a number of occasions, granted extraterritorial injunctions against overseas and Australian respondents who have engaged in misleading or deceptive conduct over the internet, even in circumstances where the direct enforcement of the injunction was difficult, if not impossible. While there has not been a great number of *Australian Consumer Law* cases that have discussed extraterritorial injunctions at length, the cases referred to in this article clearly reflect a welcome attitude of the Australian courts to enforce consumer protection law. .... 214

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