

COMPANY AND SECURITIES LAW JOURNAL

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Redefining market manipulation in Australia: The role of an implied intent element – <i>Hui Huang</i>	
The Australian market manipulation law has been amended with a view to improving its efficacy. Among the major amendments is the removal of the term “intent” from the wording of the relevant provisions. This article argues that despite the change, the intent element is still to be implied into the law. For criminal liability, the <i>Criminal Code</i> supplies the fault elements, albeit with some technical problems with its application. This is termed the statutorily implied intent approach. In civil penalty cases where the <i>Criminal Code</i> has no operation, intent should be implied through the concept of “artificiality” for a number of reasons. This is dubbed the self-implied intent approach as intent is inherently embedded in the concepts of “artificiality”. It is also submitted that the general intent to be judicially developed through the self-implied intent approach may represent an improvement on the specific intent requirement found in the former provisions.	8
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 - ² Hayton, n 1, p 286.
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