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EDITORIAL – *General Editor: Michael Terceiro* 71

ARTICLES

Selling Printed Goods or Facilitating Printing Gigs: The Redbubble Puzzle – *David J Brennan*

The distinction between agreements to sell goods and agreements to provide the service of making goods has long troubled the law. Recently the issue has arisen afresh in the context of copyright litigation concerning an online marketplace conducted by the Australian company, Redbubble. Since mid-2012 Redbubble's contractual terms have attempted to shift Redbubble from being involved in selling printed goods to it doing no more than facilitating printing gigs. This article considers Redbubble's business model in Australian law and to what extent it might nonetheless implicate the possibility of liability under s 38 of the *Copyright Act 1968* (Cth) – that is, dealing in articles with knowledge that their making constituted infringement. To do so, an overview of the terms under which Redbubble purports to arrange transactions is provided, as well as an explanation as to how Anglo-Australian law has evolved to distinguish agreements to sell future goods from agreements for services. The article deploys that analysis to suggest that Redbubble is an agent in the formation of an agreement to sell future goods by description. The article concludes by reconsidering as a matter of public policy Redbubble's potential for liability under s 38 of the *Copyright Act 1968*. 74

The 2018 Review of the Franchising Code of Conduct: Epicentre of a Year of Scrutiny for Australian Franchising – *Jenny Buchan*

At least 17 parliamentary inquiries have been conducted into business format franchising in Australia since the mid-1970s. This article identifies issues raised by stakeholders through the 2018 inquiry conducted by the Parliamentary Joint Committee on Corporations and Financial Services. The matters raised range from specific concerns such as the effectiveness of pre-contract disclosure and transparency of the marketing fund spend, to generic issues such as the challenge of achieving meaningful input into policy from franchisees. In its 2019 report "Fairness in Franchising", the Committee made 71 recommendations. These range from small drafting tweaks, to game-changing responses like recommending registration of franchise documents and proposing that the Australian Securities and Investments Commission take a proactive role in monitoring franchisors' corporate governance. 101

Confessions of an Earnest Regulator – *Michael T Schaper*

The workings of one of the nation's most influential economic regulators are revealed to a newcomer. 120

COMPETITION LAW AND MARKET REGULATION – *Editor: Professor Brent Fisse*

Harper Report Implementation Breakdown: Repeal of Section 51(3) of Competition and Consumer Act 2010 (Cth) and Lack of Proposed Supply/Acquisition Agreement Cartel Exception – *Brent Fisse* 127

COMMERCIAL LITIGATION – *Editor: Professor Michael Legg*

The Privileges against Self-incrimination and Self-exposure to Penalties in Commercial Litigation: Sadie Ville v Deloitte – *Michael Legg and Stephanie Crosbie* 137