

# TRADE PRACTICES LAW JOURNAL

Volume 18, Number 4

December 2010

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## ARTICLES

### **Must an accessory be a know-it-all? – Brent Michael**

Consumer protection legislation extends liability to accessories for misleading or deceptive conduct. However, it is unclear what level of knowledge an accessory must have of the principal contravention to be liable. The authorities at appellate level are divided into two views. The first view is that there must be knowledge of the misleading or deceptive nature of the representation. The second view is that there need only be knowledge of the facts which enable the representation to be characterised as false. In this article, the author considers the two lines of authority and argues that the first test is correct and preferable. ....	234
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### **Section 87B undertakings: Practice, principles, and pitfalls – Sarah Andrews**

Section 87B undertakings are an increasingly common mechanism for the Australian Competition and Consumer Commission to resolve enforcement matters, in particular consumer protection matters, and to provide a basis to clear mergers that raise competition concerns. On the whole, s 87B undertakings offer many advantages from the perspective of the Commission and of the legal and business community. Their use is not free from controversy, however, and can raise concerns about administrative overreach, and about compromising a proffering party's rights in subsequent private action. Drawing on the body of case law that has built up over the years, this article sets out to explore these issues with the goals of contributing to a better understanding of s 87B and its appropriate use, and providing practical guidance to businesses and legal advisors negotiating with the Commission. ....	244
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    - <sup>2</sup> Hayton, n 1, p 286.
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**THOMSON REUTERS**

© 2010 Thomson Reuters (Professional) Australia Limited ABN 64 058 914 668

Lawbook Co.

Published in Sydney

ISSN 1039-3277

Typeset by Thomson Reuters (Professional) Australia Limited, Pyrmont, NSW

Printed by Ligare Pty Ltd, Riverwood, NSW