

# AUSTRALIAN BUSINESS LAW REVIEW

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## ARTICLES

### **Regulating a Quick Fix for Debt Problems** – *Vivien Chen and Candice Lemaitre*

The financial fallout from the COVID-19 pandemic has left many individuals with increasing levels of debt. Studies reveal a greater vulnerability to promises of a quick fix for debt problems when anxiety levels run high over prospects of financial ruin. At the same time, businesses that offer to help resolve problems of unmanageable debt for a fee have been found to pose a significant risk to consumers. This article considers the regulation of debt management firms in the countries that have made significant strides in this burgeoning field, drawing lessons from their experiences. It highlights the key features of regulatory frameworks that contribute to better outcomes for consumers, while revealing the gaps that have allowed predatory businesses to avoid regulation. Specific strategies developed to mitigate risks of consumers being channelled towards unsuitable and unaffordable arrangements provide useful examples to other countries that are seeking to safeguard financially stressed consumers from harm. .... 154

### **Autonomous Vehicles: Regulatory, Insurance and Liability Issues** – *Julie-Anne Tarr, AA Tarr and AJ George*

Widespread adoption of autonomous vehicles, automated vehicles or driverless cars is expected to significantly disrupt the motor vehicle insurance industry. Fundamental to regulation of autonomous vehicles is who should be liable for injury or damage caused to the owner, driver or any other person in any accident. A “single insurer” solution is adopted in the *Automated and Electric Vehicles Act 2018* (UK), which extends compulsory motor vehicle insurance to cover the use of automated vehicles in automated mode. An alternative pathway is liability transfer to the manufacturer; however, this raises ambiguities in allocation of responsibility and liability where neither an identifiable human driver with full vehicle control nor a completely driverless vehicle system exists. Regardless of the final landing, increased automation will generate increased product liability claims and has potential implications for other policy types. .... 171

### **Unconscionable Conduct under the Australian Consumer Law: Clarification and Contention** – *Philip H Clarke*

The prohibitions of unconscionable conduct in ss 20 and 21 of the *Australia Consumer Law* provide consumers and businesses alike with a powerful means of obtaining relief or redress when they are the victim of transactional behaviour that is sufficiently egregious to be characterised as unconscionable. However, uncertainty has existed concerning two important aspects of these prohibitions: first, the significance of both sections using the term “unconscionable” to describe the conduct they prohibit – in particular, whether this means that the preconditions to establishing contravention are essentially the same; and

secondly, whether third parties can claim that conduct is unconscionable towards them when it arises via a transaction to which they are not a party and whether they can obtain a remedy when conduct is unconscionable towards others. These matters were addressed by two recent decisions of the Full Federal Court. While they clarify the first, the second remains a matter of contention. .... 180

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