

# AUSTRALIAN JOURNAL OF COMPETITION AND CONSUMER LAW

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## EDITORIAL

**COVID-19, the Australian Consumer Law and Serendipity** ..... 177

## ARTICLES

**When the Left Hand Does Not [Want to] Know What the Right Hand Is Doing: The Attribution and Aggregation of Corporate Knowledge in Australia** – *Claudia Oakeshott and Deniz Kayis*

At present, there is no precedent in Australia for knowledge to be aggregated for the purpose of corporate attribution. The courts have been firm that it is not appropriate to change the character of discrete pieces of information by consolidating them into a single piece and in doing so create a guilty mind from an innocent one. Nevertheless, the courts have left open the possibility that, with the right set of facts and legislation, it may be appropriate to so aggregate knowledge. This article examines the development of the law in this area and considers the circumstances in which aggregation may prove appropriate. .... 180

**Continuing the ACL Journey** – *Rod Sims*

This article focuses on the importance of consumer law to the Australian economy. It notes the key role played by higher penalties for *Australian Consumer Law* compliance, and some of the recent high penalties achieved by the Australian Competition and Consumer Commission. It then describes why changes to consumer law in relation to product safety, unfair contract terms and consumer guarantees are needed and the requirement for an unfair practices provision, as well as the case for upfront rules applying to digital platforms in relation to consumer law. Finally, it discusses the importance of regulators actively engaging in policy advocacy. .... 204

**There Is No Such Thing as a Free Lunch – Or Laptop** – *Ketki Kotwal*

The Federal Court decision of *Australian Competition and Consumer Commission v Australian Institute of Professional Education Pty Ltd (in liq) (No 3)* in proceedings brought by the Australian Competition and Consumer Commission (ACCC) and the Commonwealth of Australia (the Commonwealth), (collectively known as the Applicants), concerns contraventions of the *Australian Consumer Law* (ACL) in relation to the provision of vocational education courses provided by the Australian Institute of Professional Education Pty Ltd (AIPE). The Applicants alleged breaches of various sections of the ACL in relation to AIPE's practices when marketing and enrolling students into courses, and sought declarations and pecuniary penalties accordingly. As it stands, these proceedings represent the highest penalty imposed under the ACL to date, with a record \$153 million in penalties being ordered against AIPE. .... 209

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