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It's Time – The Trade Practices Act 1974 Then and Now – *IS Wylie*

The *Trade Practices Act 1974* (now the *Competition and Consumer Act 2010*) had its 50th Birthday on 24 August 2024. This article revisits its legal and political origins, and its legal significance and economic impact at the time. It goes on to trace what remains of the original Act, to evaluate its ongoing application and the utility of those provisions, and to make some quantitative and qualitative observations as to its form and effect. 338

Transforming Australian Business in 23 Words: The First 50 Years of the Prohibition of Misleading or Deceptive Conduct – *Andrew Terry*

The prohibition of misleading or deceptive conduct, first introduced in s 52 of the *Trade Practices Act 1974* (Cth) but now enshrined in s 18 of the *Australian Consumer Law*, has had a massive impact on the conduct of business in Australia. The section has had an influence far beyond its assumed residual consumer protection role as a provision complementing the specific provisions prohibiting particular examples of misleading conduct. It has evolved into a general norm of conduct for misleading conduct in a range of circumstances far removed from any traditional notions of consumer protection and has become a staple of commercial litigation. This article traces the development of s 18 and its increasing impact on Australian business. 350

Public Benefit in Mergers: A View on Authorisation 50 Years On – *Deborah Healey and Rhonda L Smith*

The Australian competition law has always allowed specific exemptions for particular conduct and nominated parties based on tests around public benefit under its authorisation process. This process has stood the test of time and has been expanded in more recent years till it covers all Pt IV conduct. This recognises that competition is a means to an end and may need to be modified in some particular cases where public policy demands a different market solution. This article considers the history of authorisation through the lens of mergers on the 50th anniversary of competition law in Australia. It is also a time when the merger process has been under review. It examines the impact of public benefit considerations in the Australian merger authorisation process to determine whether the process has been effective and how public benefit should be interpreted going forward. It reflects on how past experience might inform any new approach to public benefit in mergers. It concludes that there is little evidence that consideration of public benefits to date has been superfluous, flawed or should be abolished. It finds that public benefit analysis is, however, subject to the issue common to all competition law analysis – the

determination of the "future with and without" and likely public benefit arising – with any degree of certainty. It considers whether further guidance should be included in the CCA in the new merger provisions about the ambit of public benefit. It also finds that the positives of the authorisation process far outweigh the negatives and confirms that authorisation provides an unusual though really useful tool for strengthening markets under Australian competition law both in respect of mergers and other conduct. 375

The Forgotten Story: The ACCC's Role in the Waterfront Dispute – *Michael Terceiro*

While there would be no debate that the impact of the *Trade Practices Act 1974* (Cth) (TPA) over the last 50 years on all aspects of business behaviour has been extraordinary, there is one area where the TPA was used to achieve extraordinary results which has rarely been discussed. In this article I will be discussing the Australian Competition and Consumer Commission's (ACCC) role in the Waterfront Dispute and how it used the secondary boycott provisions to combat global and domestic boycott conduct. The ACCC played a central (and somewhat unwilling) role in the dispute after the Office of the Employment Advocate concluded it did not have jurisdiction. Once the ACCC entered the fray it was not willing to exit stage left without obtaining some meaningful remedies much to the chagrin of the Maritime Union of Australia, Patrick Stevedores Holdings Pty Ltd, the Australian Council of Trade Unions and the Howard Government. 392

Emerging Competition Issues in the Age of Artificial Intelligence – *Arieh Herszberg*

The *Trade Practices Act 1974* (Cth) (TPA) revolutionised Australian competition law by establishing a comprehensive framework for regulating anti-competitive behaviour and protecting consumer rights. This legacy, continued through the *Competition and Consumer Act 2010* (Cth) (CCA), faces unprecedented challenges with the rise of artificial intelligence (AI). This article examines the transformative impact of the TPA, its evolution into the CCA, and the implications of AI for Australia's competition regime. The article highlights how AI-driven technologies disrupt markets, facilitate tacit collusion, and exacerbate barriers to entry, raising concerns about transparency, adaptability, and liability. Drawing on the Australian Treasury's inquiry into AI and consumer law, this piece critically evaluates the adequacy of the current regulatory framework. The article argues for AI-specific reforms to safeguard consumer rights and ensure competitive fairness in an increasingly AI-dominated marketplace. 413

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