# AUSTRALIAN BUSINESS LAW REVIEW

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EDITORIAL – General Editor: Michael Terceiro Special Guest Editor: Rob Nicholls

ARTICLES

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

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

# **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 benefit analysis is, however, subject to the issue common to all competition law analysis – the

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

#### **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.

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