

# AUSTRALIAN JOURNAL OF COMPETITION AND CONSUMER LAW

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### **Supermarket private labels: Consumer dream or nightmare in disguise?** – *Mark Lewis*

Supermarket private labels now account for around a quarter of all retail grocery sales in Australia. Although benefitting consumers in the form of increased choice and lower prices in the short term, private label growth also has the potential to generate adverse long-term effects on competition, innovation, and consumer welfare. With Australia’s highly concentrated retail grocery sector currently being examined under the federal government’s “root and branch” review of competition laws, this article examines the impacts of supermarket private labels on competition and explores some of the measures to address their potential anti-competitive effects, including under the proposed voluntary code of supermarket conduct and through enforcing the existing prohibitions on misuse of market power and unconscionable conduct in the Competition and Consumer Act 2010 (Cth). .....

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### **Section 46 of the Competition and Consumer Act: The need for change** – *James Laman and Marina Nehme*

Section 46 of the Competition and Consumer Act 2010 (Cth) is concerned with the anti-competitive consequences of corporations who misuse their market power for an illegal purpose. This is a crucial provision because it aims to protect consumers, but it has been difficult to enforce. This article considers the way s 46 has been enforced by the Australian Competition and Consumer Commission over the years, and then proposes alterations to the provision to ensure that the section takes into account fair competition. The authors believe that such a move will enhance the application of s 46 and will therefore benefit the wider community. ....

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### **Politics and the administration of the Australian competition and consumer law** – *Hank Spier*

This article looks at the history of the Trade Practices Commission and its successor the Australian Competition and Consumer Commission in relation to political influences and relationships. It has always been assumed that being an independent regulatory agency is above politics, and while that is largely the case in regard to the agency’s day-to-day decisions, politics is a major influence in relation to the law itself and sometimes to its administration. Further, like any public funded agency, the Commission has always had an

eye on the government of the day and has sought to avoid causing any political backlash. The article concludes with the author's view of the need for independence and to limit political influence where possible. ....	134
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