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EDITORIAL

And so say all of them 253

ARTICLES

Establishing accessorial liability under the Australian Consumer Law – Stephen Lumb

In 1985, the High Court, in the case of *Yorke v Lucas*, addressed accessorial liability under s 75B of the Trade Practices Act 1974 (Cth). Despite the passage of time since then, there remain unresolved issues in respect of the application of s 75B and analogous provisions in the successor legislation, the Competition and Consumer Act 2010 (Cth) (which incorporates the Australian Consumer Law). This article analyses the current unsettled position in relation to the constituent elements for establishing accessorial liability under the current legislation and proposes a solution to various issues, including whether knowledge of the facts by which it can be concluded that each element has been established is sufficient; whether an accessory must have knowledge of all of the facts proved against the primary contravenor; and the extent to which proof of accessorial liability requires something more than mere knowledge of the essential elements. 254

China’s MOFCOM: Gaining in confidence and transparency – Thomas Jones, Raquel Lapresta and Jessica Qiu

China’s Anti-Monopoly Law came into effect just over five years ago and remains one of the youngest antitrust laws in the world, primarily enforced by the Ministry of Commerce of the People’s Republic of China (MOFCOM). This article provides an analysis of recent MOFCOM decisions in light of trends observed in Europe and Australia over the past few years. It can be seen that, since its establishment, MOFCOM has become more confident in accepting and imposing complex behavioural remedies as it adopts successful monitoring and enforcement mechanisms. Further, MOFCOM’s competition and market analysis has also increased in detail and sophistication as it accumulates more experience. 266

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