EDITORIAL........................................................................................................................................5

ARTICLES

Erosion of rights – or redressing the balance: Competition challenges to intellectual property rights – Carolyn Oddie and Patrick Eyers
The renewed focus on the friction between the underlying rationale for intellectual property rights on the one hand and competition law on the other, makes it increasingly more difficult for intellectual property owners to assert their legal rights without challenge. This article examines recent developments in Europe, the United States and Australia which highlight this developing tension, and explores its consequences. In Australia, the tension is evidenced by the proposals to weaken the legislative exemptions traditionally offered to intellectual property owners under the Trade Practices Act 1974 (Cth), and the increased willingness of the ACCC to involve itself in issues relating to perceived anticompetitive exercise of intellectual property rights.................................6

Becoming competitively neutral – Removing the gilded edge of government business – Ian Hanrahan
As the interplay between government and private players in commercial markets continues to grow, so too does the need to neutralise the effect of any resulting competitive distortions. This article investigates the reasons behind competitive neutrality principles and their application to Australian jurisdictions since the Competition Principles Agreement. After defining the crucial concepts of “significant business activity”, “full cost attribution” and “public interest”, the cost benchmarking processes in Queensland and Victoria will be considered. Finally, a case study will highlight the distortions that exist for government businesses, and the considerable effect that competitively neutral adjustment fees can have on their operations.................................19

CONSUMER PROTECTION

Fat Spat: Packaging, passing off and misleading the metabolically challenged – Damien Millen.................................................................37

ENFORCEMENT AND REMEDIES

Remedies in enforcement proceedings commenced by the ACCC – Michael Corboy.................................................................42
CASE NOTES

Australian Competition and Consumer Commission v Australian Safeway Stores Ltd [2003] ATPR 41-935 – Caterina Cavallaro..........................................................49

COMMISSION CAMEOS

Hank Spier..........................................................................................................................54

WORTH REPEATING......................................................................................................57
Guidelines for Contributors

Submission and licence agreement instructions
All contributions to the journal are welcome and should be sent, with a signed licence agreement, to the Production Editor, Trade Practices Law Journal, Lawbook Co., PO Box 3502, Rozelle, NSW 2039 (mail), 100 Harris St, Pyrmont, NSW 2009 (courier) or by email to tplj@thomson.com.au, for forwarding to the Editor. Licence agreements can be downloaded via the internet at http://www.lawbookco.com.au/authorsupport/d_authorJournals.asp. If you submit your contribution via email, please confirm that you have printed, signed and mailed the licence agreement to the attention of the Production Editor at the mailing address noted above.

Letters to the Editor
By submitting a letter to the editor of this journal for publication, you agree that Thomson Legal & Regulatory Limited, trading as Lawbook Co., may edit and has the right to, and may license third parties to, reproduce in electronic form and communicate the letter.

Manuscript
- Manuscript must be original, unpublished work that has not been submitted for publication elsewhere.
- Personal details (name, qualifications, position) for publication and a delivery address, email address and phone number must be included with the manuscript.
- Manuscript must be submitted electronically via email or on disk in Microsoft Word format.
- Manuscript should not exceed 7,000 words for articles or 3,000 words for section commentary or book reviews. An abstract of 100-150 words is to be submitted with article manuscripts.
- Proof pages will be sent to contributors. Authors are responsible for the accuracy of case names, citations and other references. Excessive changes to the text cannot be accommodated.
- Contributors of articles receive 25 free offprints of their article and a copy of the part in which the article is published. Other contributors receive a copy of the part to which they have contributed.
- All material published in this journal is refereed. Every manuscript submitted is subject to peer review for the purpose of maintaining the standards of the journal.

Style
1. Levels of headings should be clearly indicated (no more than four levels).
2. Cases:
   - Case citation follows case name. Where a case is cited in the text, the citation should follow immediately rather than as a footnote. Give at least two and preferably all available citations, the first listed being the authorised reference.
   - Australian citations should appear in the following order: authorised series; Lawbook Co./ATP series; other company series (ie CCH, Butterworths); media neutral citation.
   - “At” references should only refer to the best available citation, eg: Mabo v Queensland [No 2] (1992) 175 CLR 1 at 34; 66 ALJR 408; 107 ALR 1.
   - Where only a media neutral citation is available, “at” references should be to paragraph, eg: YG v Minister for Community Services [2002] NSWCA 247 at [19].
   - For international cases best references only should be included.
3. Legislation should be cited as follows:
   - Trade Practices Act 1974 (Cth), s 51AC. The full citation should be repeated in footnotes.
4. Books should be cited as follows:
   - In footnotes do not use ibid or op cit. The following style is preferred:
     5. Austin, n 4, p 56.
5. Journals should be cited as follows:
   - Wherever possible use official abbreviations not the full name for journal titles.
   - In footnotes do not use ibid or op cit. The following style is preferred:
     7. Sheehy et al, n 6 at 221.
6. Internet references should be cited as follows:

For further information visit the Lawbook Co. website at http://www.lawbookco.com.au or contact the Production Editor.
SUBSCRIPTION INFORMATION

The *Trade Practices Law Journal* comprises four parts a year.

Customer Service and sales inquiries:
Tel: 1800 650 522
Fax: 61 2 8587 7200
Web: www.lawbookco.com.au
Email: service@thomson.com.au

Editorial inquiries:
Tel: (02) 8587 7000

HEAD OFFICE
100 Harris Street PYRMONT NSW 2009
Tel: (02) 8587 7000 Fax: (02) 8587 7100

© Thomson Legal & Regulatory Limited ABN 64 058 914 668 trading as Lawbook Co.

ISSN 1039-3277

Typeset by Lawbook Co., Pyrmont, NSW
Printed by Ligare Pty Ltd, Riverwood, NSW