



Australian & New Zealand Competition & Consumer Law Update



Message from the Editor

Prudence Smith

In this edition of the *Update*, we comment on the ACCC's digital platform inquiry and the ACCC's expanding oversight of the financial services sector. We also look at the increasing focus on cartel conduct as illustrated by the ACCC's first criminal action against an individual. Finally, we look at Australia's new prohibition against concerted practices.

Highlighting Changes of Interest in Competition and Consumer Law

ACCC Issues Paper on Digital Platforms Inquiry

Summary

In December 2017, the Australian government directed the ACCC to conduct an inquiry into the role of digital platforms in media and advertising services markets, particularly in relation to the supply of news and journalistic content. On February 2018, the ACCC released an Issues Paper identifying the issues on which it seeks feedback.

The Digital Platforms Inquiry ("Inquiry") seeks to assess the current state of competition and fairness in the media and advertising services industries by investigating the role of digital search engines, social media platforms, and digital aggregation platforms.

The ACCC accepted submissions in response to its Issues Paper until 3 April 2018.

[\[Read More\]](#)

ACCC Expands Oversight of the Financial Services Sector

Summary

Businesses can expect to see continued focus on competition scrutiny in the financial services industry throughout 2018. This is an area of increasing investigation by regulatory authorities, including the ACCC, which continues to expand its oversight of the sector.

ACCC Views on Competition in the Financial Services Sector

The Productivity Commission released its draft report into competition in the financial services sector in February 2018. The report states that competition has taken a back seat in favour of financial stability due to Australian Prudential Regulation Authority ("APRA") regulatory actions and the overlapping and conflicting responsibilities of regulators. The ACCC agrees that there is a need for greater competition advocacy and has stated that it is willing to work more closely with APRA, the Australian Securities and Investments Commission ("ASIC"), and the Reserve Bank ("RBA") to achieve this outcome. The ACCC believes that it is well placed to pick up the shortfall in the current regulatory regime.

[\[Read More\]](#)

ACCC Brings First Criminal Cartel Prosecution Against Individuals

Summary

The ACCC has brought the first ever criminal cartel proceedings against an Australian corporation, Country Care, and two individuals. This comes after ACCC Chairman Rod Sims announced that the

regulator would likely be pursuing three to four domestic criminal cartel actions in 2018.

The Australian Competition and Consumer Commission ("ACCC") has brought criminal charges against The Country Care Group Pty Ltd ("Country Care"), its managing director, Robert Hogan, and a former employee, Cameron Harrison.

This marks the first criminal prosecution of an Australian corporation under the criminal cartel provisions of the *Competition and Consumer Act 2010* (Cth) ("Act") against individuals. The criminal cartel action against Country Care serves as a reminder to corporations and individuals of their obligations under the Act and the consequences of engaging in cartel conduct.

[\[Read More\]](#)

Harper Reforms Introduces Concerted Practices Prohibition

Summary

As part of the Harper reforms to Australia's competition law, a new concerted practices prohibition has been introduced that represents a significant broadening of the prohibition on anticompetitive conduct.

In late 2017, the *Competition and Consumer Act 2010* (Cth) ("CCA") was amended to insert, among other things, a new prohibition on concerted practices. Although it remains to be seen how the new legislation will be interpreted by Australian courts, the amendment represents a significant broadening of the scope of co-operative behaviour between competitors that can breach the CCA. Businesses should be conscious that conduct with competitors that was not previously prohibited may now be caught by the new laws.

[\[Read More\]](#)

Matthew Whitaker, an associate in our Sydney Office, assisted with the preparation of this Update.

Follow us on:



Jones Day is a legal institution with more than 2,500 lawyers on five continents. We are One Firm WorldwideSM.

Disclaimer: Jones Day's publications should not be construed as legal advice on any specific facts or circumstances. The contents are intended for general information purposes only and may not be quoted or referred to in any other publication or proceeding without the prior written consent of the Firm, to be given or withheld at our discretion. To request reprint permission for any of our publications, please use our "Contact Us" form, which can be found on our website at www.jonesday.com. The mailing of this publication is not intended to create, and receipt of it does not constitute, an attorney-client relationship. The views set forth herein are the personal views of the authors and do not necessarily reflect those of the Firm.

© 2018 Jones Day. All rights reserved. 51 Louisiana Avenue, N.W., Washington D.C. 20001-2113