



# ACCC CONTINUES FOCUS ON TECH AND ESSENTIAL SERVICES AS PART OF BROAD RANGING PRIORITIES

26 February 2020 | Australia

Legal Briefings - By **Philip Aitken and Kate French**

---

The ACCC's 2020 enforcement priorities provide an insight into its focus areas and a preview of matters that are likely to develop over the course of 2020. This year's priorities highlight a continued focus on key consumer facing industries, with technology and essential services (such as electricity and telecommunications) continuing to be focal points.

The priorities also provide an interesting insight into the ACCC's strategic decision-making. In setting its priorities, the ACCC will respond to consumer feedback and also look to international trends, particularly in the UK and Europe (engaging with competition regulators around the world).

These priorities also highlight the Government's increasing influence on competition policy through its referral of market inquiries to the ACCC, which regularly lead to subsequent ACCC enforcement action.

## ONGOING FOCUS ON DIGITAL PLATFORMS AND ESSENTIAL SERVICES

### DIGITAL PLATFORMS

The 2019 focus on digital platforms, culminating in the [Digital Platforms Inquiry Report](#), the [Customer Loyalty Scheme Report](#) and the creation of the Digital Platforms Branch, appears unlikely to abate in 2020. This will remain a key priority in 2020, with the ACCC stating that it is advancing many investigations and is working closely with competition agencies around the world regarding digital platform issues.

This ongoing focus is reflected in the Government's recent announcement regarding the ACCC inquiries into markets for the supply of digital advertising technology services and digital advertising agency services and digital platform services.

## **ESSENTIAL SERVICES**

The ACCC has also renewed its 2019 focus on essential services, specifically in relation to retail electricity and telecommunications services. This is a priority area which has been retained in 2020 for the ACCC. Notwithstanding the ACCC focus on these sectors in 2019, the ACCC expressed ongoing concerns regarding a lack of transparency in the pricing of essential services. Of focus will be anti-competitive conduct and failing to pass on cost reductions through the proposed [new energy market misconduct laws](#).

## **NEW AND REFINED PRIORITIES FOR 2020**

The 2020 priorities reflect the breadth of the ACCC's activity, with a number of new and refined priorities. These priorities are informed both by feedback from consumers as well as lessons learnt from the competition agencies around the world:

- The ACCC has stated that its continued focus on consumer guarantees, particularly related to motor vehicles and white goods reflects the fact that it received a staggering 25,000 complaints involving these sectors over the last year (approximately 25% of the total number of non-scam related complaints to the ACCC over the year).
- The focus on the funeral industry highlights the interconnected nature of competition law enforcement – coming off the back of the UK competition authority's ongoing market investigation into the same sector. The ongoing focus on digital platforms is also in the context of aggressive competition enforcement against technology companies, particularly in Europe.

The new priorities for 2020:

- competition and consumer issues in the funeral services sector;

- misleading conduct in relation to the sale and promotion of food products, including health and nutritional claims, credence claims and country of origin;
- ensuring compliance with the dairy code (which came into effect on 1 January 2020);
- pursuing regulatory options to prevent injuries and deaths to children caused by button batteries;
- empowering consumers and improving industry compliance with consumer guarantees, with a focus on high value goods such as motor vehicles and electrical and white goods;

There are a number of priorities from 2019 which have been retained, some of which have been refined or with a new specific focus. These include:

- competition and consumer issues relating to digital platforms. Previously this was expressed as focuses on consumer data and customer loyalty schemes;
- competition and consumer issues relating to the pricing and selling of essential services with a focus on energy and telecommunications;
- conduct affecting competition in the commercial construction sector, with a specific focus on large public and private projects and conduct impacting small business. Previously this was expressed as competition issues and unfair business practices in the commercial construction sector;
- ensuring that small business receive the protections of the competition and consumer laws, with a focus on the Franchising Code of Conduct;
- finalising the compulsory recall of vehicles with Takata airbags.

## **ENDURING PRIORITIES REMAIN UNCHANGED**

The ACCC's enduring priorities remain unchanged going into 2020. It will continue to focus on conduct and sectors that it considers to be most harmful to consumers and markets. In particular, it will continue to focus on:

- cartel conduct;
- anti-competitive conduct (anti-competitive agreements and practices, as well as misuse

of market power);

- product safety issues which have the potential to cause serious harm to consumers;
- conduct which impacts vulnerable and disadvantaged consumers; and
- conduct which impacts Indigenous Australians.

The ACCC has stated that these priorities are reflected in its investigations pipeline, with a promise to bring a number of cases reflecting these priorities over the course of 2020, including at least two further cartel cases and four additional competition cases in court during 2020.



## KEY CONTACTS

If you have any questions, or would like to know how this might affect your business, phone, or email these key contacts.



**SARAH BENBOW**  
PARTNER,  
MELBOURNE  
+61 3 9288 1252  
Sarah.Benbow@hsf.com



**PATRICK GAY**  
PARTNER, SYDNEY  
+61 2 9322 4378  
Patrick.Gay@hsf.com

---

## LEGAL NOTICE

The contents of this publication are for reference purposes only and may not be current as at the date of accessing this publication. They do not constitute legal advice and should not be relied upon as such. Specific legal advice about your specific circumstances should always be sought separately before taking any action based on this publication.

© Herbert Smith Freehills 2022

---

**SUBSCRIBE TO STAY UP-TO-DATE WITH INSIGHTS, LEGAL UPDATES, EVENTS, AND MORE**

Close

© HERBERT SMITH FREEHILLS LLP 2022