

COMPETITION & TRADE PRACTICES

Overview

TressCox has a team of lawyers who provide informed, intelligent and creative competition law services to our clients. Our competition law experts do not merely help clients in the management of the issues they face – we assist businesses to utilise their competitive advantages and turn them into commercial opportunities without breaching their legal obligations. We can also advise clients about the competition law aspects of the conduct of their competitors, customers and suppliers and, where appropriate, conduct private enforcement proceedings.

We also provide sensible, innovative and cost-effective dispute resolution services and are highly experienced in all aspects of defending prosecutions and other claims brought under the Trade Practices Act. We regularly deal with complaints by competitors, ACCC investigations and s.155 Notices, negotiating with ACCC Commissioners and government lawyers, as well as run court actions at trial and appellate levels.

Client Base

Our broad client base has given us a wealth of experience in dealing with competition law issues arising in a diverse range of industries, including:

- Media and entertainment
- Marketing and public relations
- Insurance
- Manufacturing
- Finance
- Infrastructure, construction and project management
- Local government
- Health care
- Telecommunications

TressCox is listed as a recommended law firm in the Asia Pacific Legal 500 (2006/07, 2007/08 & 2008/09) for Competition and Trade.

Services

Access to Services

- Applications for declarations that services be declared essential services
- Access to essential services.

Restrictive Trade Practices

- Mergers, acquisitions and joint ventures
- Authorisation applications
- Compliance programs and education
- Competition policy
- Anti-competitive arrangements
- Price fixing claims
- Secondary boycotts
- Misuse of market power
- Exclusive dealing claims
- Resale price maintenance.

Unconscionable Conduct

We assist clients in respect of claims alleging:

- Unconscionability in respect of business dealings
- Contracts are unfair.

Consumer Protection

We have experience in advising and assisting clients in their dealings with consumers, suppliers, competitors, contractors and employees in respect of potentially:

- Misleading or deceptive conduct
- False representations.

Product Liability

We have considerable expertise in assisting clients with product safety issues, including product recalls, risk management and defence of product liability actions.

Compliance Programs

Preparation, implementation, and audit of compliance programs designed to create and maintain a trade practices compliance culture. Where necessary, we have worked with the ACCC to create programs which meet with their approval. The firm's commitment to best practice in trade practices compliance is evidenced by its membership of the Australian Compliance Institute.

Track Record

- Advised on and prepared an application to the ACCC on behalf of a professional association seeking an authorisation under section 88 of the Trade Practices Act.
- Advised the owner of numerous well-known household product brands on compliance with Part V of the Act in regard to their advertising programs and on whether their competitors' advertising breached the Act.
- Acted on the Australian component of a worldwide acquisition of business comprising well-known household brands, including advice relating to Part IV of the Act.
- Defended a multinational record company in proceedings brought by the ACCC for alleged breaches of Part IV of the Act.
- Created, implemented and audited trade practices compliance programs for record companies, telecommunications companies, professional associations and local government bodies.
- Acted for an Australian merchandise producer and international recording artists in obtaining orders based on the Act which allowed for the seizure of unauthorised merchandise outside concert venues.
- Conduct successful litigation for a well-known UK take-away food business which complained about a copy-cat business in Australia.
- Acted for several insurance companies and their insureds in numerous claims brought against professionals for allegedly misleading and deceptive conduct.
- Advised a major oil company on third parties' rights to obtain access to their facilities under Part IIIA of the Act.



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