

Recent Australian consumer law developments

PREPARED BY

Jessica Sapountsis

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AGENDA

- ACCC enforcement priorities
- ACCC review of retail websites
- Recent cases and trends
- Greenwashing

ACCC's 2025/2026 enforcement priorities

1. Retail and supermarket sectors – focus on firms with market power and misleading pricing practices
2. Essential services – promoting competition in telecommunications, electricity and gas sectors and misleading pricing and claims focusing on energy and telecommunications
3. Aviation – competition and consumer issues
4. Digital economy – competition, product safety, consumer and fair trading issues. Continued focus on influencer marketing, online reviews, in-app purchases and unsafe consumer practices
5. Pricing claims – misleading surcharging practices and other add-on costs
6. Environmental claims – consumer, fair trading and competition issues concerning environmental claims and sustainability, focusing on greenwashing

ACCC's 2025/2026 enforcement priorities

7. Unfair contract terms – in consumer and small business contracts, focusing on harmful cancellation terms
8. Consumer guarantees – improving industry compliance, focus on consumer electronics
9. NDIS – improving ACL compliance by NDIS providers
10. Children's product safety issues – consumer product safety issues for young children, focus on compliance with button battery safety standards, raising awareness re new infant sleep and toppling furniture standards

ACCC's review of retail websites

[ACCC sweep uncovers concerning online shopping return policies and terms and conditions | ACCC](#)

ACCC's review of retail websites

- In February 2025, the ACCC published a summary of the results of sweep of more than 2,000 Australian retail websites
- Review found that some businesses' T&Cs might contravene the ACL. As a result, several warning letters were sent to businesses
- Problematic things included:
 - imposing time-limits for returning a faulty product;
 - imposing blanket 'no refund' conditions on sales or specialised items;
 - referring to manufacturer warranties as the only avenue for consumers to claim remedies for faulty goods, and
 - placing restrictions on consumers' right to a remedy, including stating that delivery fees paid for faulty items were non-refundable and charging restocking fees if customers returned faulty items

Recent cases

- Mentioned by ACCC in online sweep
- Price claims or failure to deliver product
- Local claims

Consumer guarantees

- February 2024 – Mazda ordered to pay \$11.5 million in penalties for misleading or deceiving consumers as to consumer guarantee rights
- March 2024 – ACCC commenced proceedings against Mosaic brands for misrepresenting consumer guarantee rights and making false or misleading representations about consumer delivery times
- November 2024 – Koala paid penalties of \$56,340 after being issued with three infringement notices regarding false or misleading statements it made relating to the timeframe for seeking remedies for faulty products

Price claims / failure to deliver

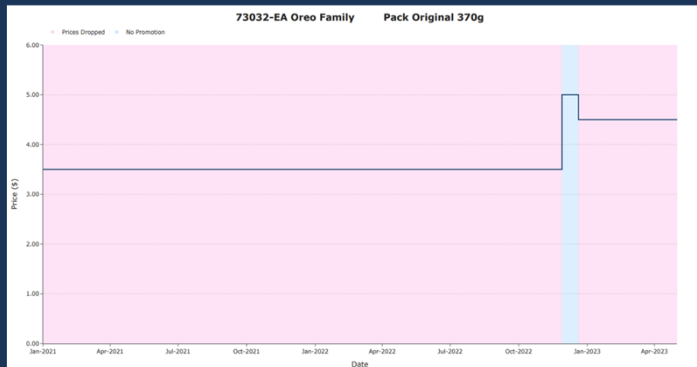
- *ACCC v EnergyAustralia* – claim that electricity offer was based on an ‘average’ customer with certain characteristics was false, because dollar figure stated was not the estimated annual price for such a customer (*Australian Competition and Consumer Commission (ACCC) v EnergyAustralia Pty Ltd* [2024] FCA 1126)
- *ACCC v Webjet* – advertisement of flights at prices that were not available + requests for additional payments to complete booking (*Australian Competition and Consumer Commissioner (ACCC) v Webjet Marketing Pty Limited* VID 1304/2024)
- *ACCC v eHarmony* – claims that Eharmony offered ‘free dating’ but there as automatic renewal of memberships, accurate prices weren’t displayed, statements about ‘one month’ memberships and early cancellation options (*Australian Competition and Consumer Commission V Eharmony, Inc.* VID 708/2023)

Price claims / failure to deliver

- *ACCC v Qantas* – Qantas sold tickets to flights that were already cancelled or continued to advertise tickets to flights which had already been cancelled/didn’t show flights as cancelled to those who had already purchased them (*Australian Competition and Consumer Commissioner v Qantas Airways Ltd* [2024] FCA 1219)
- *ACCC v Bloomex* – Bloomex made representations that its products were on sale or discounted, when they were not, that the star ratings were a reliable indicator of customer satisfaction, when they were not and that products could be purchased for a specified price, when a surcharge would be applied at checkout (*Australian Competition and Consumer Commissioner (ACCC) v Bloomex Pty Ltd* [2024] FCA 244)
- *Meg’s Flowers* – claim that it was a local florist was not correct (*Australian Competition and Consumer Commissioner (ACCC) v Meg’s Flowers Pty Ltd* [2024] FCA 1435)

Supermarkets

- Supermarkets enquiry
- Cases against Coles and Woolworths



Supermarkets inquiry and cases against major supermarkets

- ACCC Supermarkets Inquiry 2024-24: final report supposed to have been handed down by 28 February 2025
- Cases against Coles and Woolworths for misleading “price dropped” and “down down” claims
 - ACCC claims prices were increased for brief periods before being dropped so as to look like there was a price decrease, when in fact the price was higher than, or the same as, the price before the price spike

Greenwashing

ACCC cases

ASIC / Ad Standards

Lessons

'Greenwashing' is a term used to describe false or misleading environmental claims. Greenwashing makes business appear more environmentally beneficial than they really are

<https://www.accc.gov.au/consumers/advertising-and-promotions/environmental-and-sustainability-claims>

ACCC cases

- ACCC undertook an investigation into greenwashing a couple of years ago. As a result, it published guidelines "Making Environmental Claims"
- ACCC v Clorox – misleading representations that Clorox/GLAD products were made using 50% ocean plastic because bags were not made with plastic from an ocean or sea (*Australian Competition and Consumer Commission v Clorox Australia Pty Limited* (ACN 077 194 935) VID315/2024)
- Designated complaints scheme
- Substantiation notices

ASIC cases

- Three cases ASIC has commenced against investment funds claiming to make “green” (or “environmentally conscious”) investments
 - ASIC v Mercer Superannuation
 - ASIC v Vanguard Investments
 - ASIC v LGSS
- Separate complaint lodged with ASIC by UniSuper member against UniSuper in relation to UniSuper’s “sustainable” funds having significant investments in Transurban

Ad Standards

- Ad Standards manages and seeks to enforce the various codes governing advertising in Australia
- Has published an Environmental Claims Code guiding advertisers on the best way to avoid making false environmental claims in advertising
- Publishes decisions of its Community Panel and there are some related to environmental claims. For example, a recent case report upheld a complaint about an internet advertisement by Hancock Prospecting that it produced “clean gas” and an ad from last year related to claims by Aldi that its freezers were “powered by 100% renewable energy”.

Lessons

1. Make accurate and truthful claims
2. Have evidence to back up your claims (including any relevant material from third parties in supply chain)
3. Don't hide important information
4. Explain any conditions or disclaimers on claims
5. Avoid broad and unqualified claims
6. Use clear and easy to understand language (ie, don't use jargon)

Other developments

- Merger reform – new merger control regime will come into effect from 1 January 2026
- Ultra Tune Full Court appeal handed down in January 2025 relating to contempt of court
- ACCC denies authorisation for industry code restricting advertising and promotion of infant formula
- Scam prevention laws bill introduced into Parliament

Thank you

Any questions?

Email: jsapountsis@dcc.com