



Nicole Breschkin

Senior Associate

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Nicole Breschkin specialises in advising clients on competition and consumer law matters, and has over 15 years' experience.

Nicole advises on all aspects of competition and consumer law, including obtaining merger clearances, responding to investigations by the Australian Competition and Consumer Commission (ACCC), responding to ACCC market studies and inquiries, structuring contractual arrangements including joint ventures and supply and distribution arrangements, advising on marketing materials and implementing and reviewing competition and consumer law compliance programs.

Nicole works with clients to achieve their strategic objectives in competition and consumer law matters. Nicole has a proven track record of distilling advice on complex competition and consumer law issues into concise and easy-to-understand advice and in negotiating favourable outcomes for clients in relation to ACCC investigations. Nicole has advised clients in a broad range of industries, including video gaming, healthcare, agriculture, aviation, travel, automotive and software.

- Antitrust and Competition

ACCC Investigations and Proceedings

- Representing SmileDirectClub in enforcement proceedings brought by the ACCC. The ACCC is alleging breaches of the Australian Consumer Law in relation to statements made by SmileDirectClub about possible private health insurance coverage for patients treated using clear aligners manufactured by SmileDirectClub and using the telehealth platform operated by SmileDirectClub.
- Advising ZeniMax Media Inc in relation to an investigation by the ACCC. The ACCC accepted a court-enforceable undertaking from ZeniMax in settlement of the matter.
- Advising EB Games in relation to an investigation by the ACCC. The ACCC accepted a court-enforceable undertaking from EB Games in settlement of the matter.
- Representing Little Company of Mary Health Care Limited (LCMHC) in enforcement proceedings brought by the ACCC in the Federal Court. LCMHC is a healthcare organisation that operates Calvary-branded public and private hospitals throughout Australia. The ACCC alleged that certain clauses in the company's by-laws, which governed the relationship between the hospitals operated by LCMHC and the doctors accredited to practice at its hospitals, were anti-competitive in breach of the Competition and Consumer Act (CCA). The parties ultimately agreed to consent orders in settlement of the matter.

- Representing the ACCC in the Australian Competition Tribunal in relation to Cooperative Bulk Handling Limited's (CBH) application to review the ACCC's decision to revoke CBH's exclusive dealing notification. The notification allowed CBH to require Western Australian grain growers and marketers who use its 'up-country' storage facilities to also use its transport services to deliver grain to port for export. The Tribunal affirmed the ACCC's decision to revoke the notification previously granted to CBH.
ACCC market studies and other inquiries
- Advising a major insurer in relation to the ACCC's Northern Australia Insurance Inquiry.
- Advising a major hotel chain in relation to the ACCC's inquiry into customer loyalty schemes.
Mergers and acquisitions
- Providing various private sector clients with merger clearance advice and preparing applications for informal merger clearances, including in the packaging, logistics, steel, energy, timber, edible oils, mining and insurance industries.
- Acting for Cox Australia Media Solutions in the sale of its business, including the online platforms CarsGuides.com.au and Autotrader.com.au, to Gumtree AU Pty Ltd. This matter involved an application to the ACCC for merger authorisation, only the second ever such application lodged. The ACCC granted the authorisation.
- Representing the ACCC in the Australian Competition Tribunal in relation to the applications by Murray Goulburn and AGL Energy Limited for merger authorisation. These were the first applications for merger authorisation in Australia.
- Advising the ACCC in relation to its consideration of whether Google's \$2.8 billion acquisition of Fitbit raised any concerns under section 50 of the Competition and Consumer Act. The transaction concerned multiple markets, including developing health markets and technology markets. The acquisition was also considered by competition law regulators in Europe, the US and Canada.
Advice on other competition law and restrictive trade practices matters
- Advising Asahi Beverages on a joint venture to build and operate a new PET plastic recycling facility. This joint venture will drive a significant increase in Victoria's PET recycling capacity.
- Advising a major car manufacturer in relation to sales channels for its electric cars.

Advice on Australian Consumer Law matters

- Advising major corporations, including an Australian airport, a food manufacturer, a motoring industry association, a car manufacturer and a pharmaceuticals company, on compliance with the Australian Consumer Law (ACL) in relation to various advertising and marketing issues, including fine print/disclaimers in advertising, comparative advertising, testimonials, environmental or 'green' claims, consumer guarantees and product safety."

CREDENTIALS

Professional Qualifications

- Solicitor of the Supreme Court of Victoria

Education

- University of Melbourne, Bachelor of Laws (Honours), 2005
- University of Melbourne, Bachelor of Arts, 2005
- University of Melbourne, Master of Commercial Laws, 2011

INSIGHTS

Publications

Court's \$2.9 million penalty against HealthEngine delivers clear guidance to businesses about customer reviews

and the use of customer information

28 August 2020

WHAT HAS HAPPENED?

The Australian Competition and Consumer Commission (ACCC) has succeeded in its case against HealthEngine Pty Ltd. HealthEngine hosts an online directory listing 70,000 health practices and practitioners across Australia and facilitates patient bookings.

HealthEngine admitted that it engaged in false, misleading and deceptive conduct by publishing selective patient reviews and ratings and sharing patients' personal information with private health insurance brokers without appropriate disclosures.

HealthEngine consented to orders requiring it to pay a penalty of \$2.9 million.

Court's \$2.9 million penalty against HealthEngine delivers clear guidance to businesses about customer reviews and the use of customer information

What to do if the ACCC come knocking: Practical tips for responding to section 155(1)(a) and (b) notices

What to do if the ACCC come knocking: Practical tips for handling section 155 examinations

Events

Previous

Session 8 - Advanced M&A Academy 2021 - Competition law issues in Asia-Pac M&A transactions

23 November 2021

Advanced M&A Academy - Australia

Webinar

NEWS

DLA Piper advises Deswik on sale to Sandvik

7 December 2021

DLA Piper is proud to have advised global consulting and technology company, Deswik Group Pty Ltd in its sale to Sandvik, and will then form part of a newly-created digital mining technologies division.
