



Fleur Gibbons

Partner

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Fleur Gibbons focuses on competition and access law, as well as economic regulation. She advises on antitrust/restrictive trade practices, including cartels, market sharing arrangement, exclusive dealing and anti-competitive agreements and merger clearances, as well as access and economic regulation of network industries, including in particular the electricity, gas and telecommunications industries.

Fleur has acted in competition, access and economic regulatory matters both for regulators and for the corporate clients appearing before them. In particular, she has extensive experience in successfully representing both the Australian Competition and Consumer Commission and corporate clients in access and economic regulatory proceedings in the Australian Competition Tribunal.

During her 14 years in the firm's Competition and Regulation team, Fleur has also been seconded to both the National Competition Council and the Australian Competition Tribunal to work on access regulatory matters under both the national regime for infrastructure access and the national gas pipeline access regime, and the Tribunal's review of the ACCC's decision not to authorise the Qantas/Air New Zealand Alliance under the Act, respectively.

Fleur's experience provides her with unique insight into the approach and workings of both key regulators and review bodies in competition, access and economic regulatory matters.

- Antitrust and Competition
- Projects, Energy and Infrastructure
- Intellectual Property and Technology

- Energy and Natural Resources

Competition and Consumer Laws

- Advising corporate clients on strategies for Competition and Consumer Act 2010 (CCA) and Australian Consumer Law (ACL) compliance of proposed conduct, including the preparation of authorisation applications and notifications for lodgement with the ACCC
- Advising corporate clients in the industrial gas and industrial batteries industries on ACCC investigations of alleged cartel conduct,

including the conduct of internal cartel investigations and applications for immunity under the ACCC's Immunity Policy

- Advising various corporate clients in relation to ACCC investigations of alleged breaches of the CCA and/or ACL, including advising on and/or negotiating s87B undertakings to address the ACCC's competition concerns
- Providing various corporate clients in a range of industries with merger clearance advice and applications for informal merger clearance
- Advising the ACCC in relation to the merger issues associated with AGL's acquisition of an interest in Loy Yang power
- Working with the Australian Competition Tribunal for six months in respect of its review of the ACCC's decision not to authorise the Qantas/Air New Zealand Alliance

Access and economic regulation of energy and telecommunications industries

- Advising the ACCC in respect of NBN Co's Special Access Undertaking which is a key part of the framework under which NBN Co is regulated and provides for the terms and conditions on which retail service providers will be able to access the network, in particular the revenue and pricing regimes to govern the provision of NBN services
- Acting for the ACCC's Communication Branch in the period 2004 to 2014 inclusive in various Australian Competition Tribunal and Federal Court proceedings relating to the regulation of access to and/or the economic regulation of Telstra's telecommunications services under the CCA, its predecessor the Trade Practices Act 1974 and the Telecommunications Act 1997
- Advising various electricity and gas network service providers on a number of reset processes before the Australian Energy Regulator (AER) under the National Electricity Law (NEL) and National Electricity Rules (NER), and National Gas Law (NGL) and National Gas Rules (NGR), and state based regulators under jurisdictional regimes. Fleur has advised CitiPower and Powercor Australia, in particular, for over a decade including acting for them in their successful appeal of the AER's decision in the Victorian distribution price review for 2011-15 in the Australian Competition Tribunal
- Advising various energy network service providers on NER and NGR amendments, including the 2012 Economic Regulation of Network Service Providers amendments, and Standing Committee on Energy and Resources' review of the NEL/NGL limited merits review regime

CREDENTIALS

Professional Qualifications

- Solicitor of the Supreme Court of Victoria, 2001
- Solicitor of the High Court of Australia, 2001

Recognitions

Fleur has been recognised in the *Best Lawyers* reports published by the *Australian Financial Review* as a leading telecommunications lawyer (in 2012, 2013, 2014 and 2015) and a leading competition lawyer (in 2015).

Education

- University of Melbourne, Bachelor of Commerce with Honours in Economics
- University of Melbourne, Bachelor of Laws with Honours

Memberships

- Law Institute of Victoria

Judicial researcher

Fleur was a judicial researcher for the County Court of Victoria between 1997 and 1998.

INSIGHTS

Fleur regularly produces publications on issues relating to antitrust/competition, access regulation and economic regulation.

Fleur regularly participates in conferences and client seminars on issues relating to antitrust/competition, access regulation and economic regulation.

Publications

A quick fix?

26 March 2021

The Federal Treasury has published a consultation paper (Paper) seeking views on options to change the National Access Regime, including timelines, availability of merits review, the ability to lodge repeat applications and the termination of arbitration proceedings and determinations.

Ports update - Australia

4 March 2021

On 16 February 2021 the Federal Treasurer rebuffed the latest attempt to regulate shipping channel services at the Port of Newcastle, refusing to 'declare' the services under the National Access Regime. The application for declaration was made by the New South Wales Mineral Council (NSWMC) and follows numerous previous considerations of whether the port should be regulated.

While this might mark the end of the battle to regulate the port for now, the ACCC is continuing to agitate for changes to the National Access Regime which could see the test for declaration widened to capture monopolies even where declaration would not promote a material increase in competition in a downstream or upstream markets.

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 Resapp Health Limited on entry into a scheme implementation deed and research, development and license agreement with Pfizer

4/12/2022

Global law firm DLA Piper have advised ASX listed ResApp Health Limited (ASX:RAP) (**ResApp**) on its entry into a binding scheme implementation deed with Pfizer Australia Holdings Pty Limited (a wholly-owned subsidiary of Pfizer Inc, a global biopharmaceutical company) (**Pfizer**) under which it is proposed that Pfizer will acquire 100% of the shares in ResApp by way of a Scheme of Arrangement (the **Scheme**) for A\$0.115 per share in cash, representing a total equity value of approximately A\$100 million.

DLA Piper advises on investment in Jolt Charge

9 September 2021

Global law firm DLA Piper has advised BlackRock Real Assets on its investment in innovative Australian electric vehicle charging company, JOLT Charge. This is BlackRock Real Assets' first investment in the EV charging infrastructure sector in Asia-Pacific and will provide JOLT with the required capital to accelerate its roll out of EV charging stations across Australia.

DLA Piper advises Banpu Energy Australia on first renewable power investment in Australia

7 June 2021

Global law firm DLA Piper is proud to have advised Banpu Energy Australia on its entry into a Securities Sale Agreement for the acquisition of a portfolio of two operating utility scale solar projects in New South Wales from New Energy Solar Limited.

DLA Piper opens new Melbourne office at 80 Collins Street

30 December 2020

DLA Piper's Melbourne office has a new home in the state-of-the-art 80 Collins Street precinct, effective 1 January 2021.
