

SANCTIONS AGAINST CORPORATIONS AND INDIVIDUALS UNDER AUSTRALIAN COMPETITION AND CONSUMER LEGISLATION – USAGE PATTERNS

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These are research notes for Part 1.2 of ‘Sanctions Against Corporations and Individuals Under Australian Competition and Consumer Legislation’, a chapter to be published by Routledge in a forthcoming two-volume work to mark the 50th anniversary of the Trade Practices Act, now the Competition and Consumer Act.

These research notes set out lists of cases on certain usage patterns of sanctions under the Act and the ACL. The lists were generated initially by AUSTLII searches. No AI search method was used.

This is very basic information. Hopefully, more extensive research will be undertaken on what legislatures, courts and enforcement agencies do, and do not do, in this important area of enforcement. Earlier detailed studies include: C Beaton-Wells and B Fisse, *Australian Cartel Regulation* (Cambridge University Press, 2011) ch 10; C Beaton-Wells & J Clarke, ‘Corporate financial penalties for cartel conduct in Australia: A critique’ (2018) at: https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3149143.

1. Criminal sanctions

Convictions were recorded against 7 individuals and 7 corporations between 2009 (when cartel offences were introduced) and 30 June 2024:

1.1 Individuals

- *Director of Public Prosecution (Cth) v Vina Money Transfer Pty Ltd* [2022] FCA 665 (4 individuals)
- *Director of Public Prosecutions (Cth) v Joyce* [2022] FCA 1423
- *Director of Public Prosecutions (Cth) v Bingo Industries Pty Ltd* [2024] FCA 121
- *Director of Public Prosecutions (Cth) v Aussie Skips Recycling Pty Ltd* [2024] FCA 122

1.2 Corporations

- *Director of Public Prosecutions (Cth) v Nippon Yusen Kabushiki Kaisha* [2017] FCA 876
- *Director of Public Prosecutions (Cth) v Kawasaki Kisen Kaisha Ltd* [2019] FCA 1170
- *Director of Public Prosecutions (Cth) v Wallenius Wilhelmsen Ocean AS* [2021] FCA

- *Director of Public Prosecution (Cth)s v Vina Money Transfer Pty Ltd* [2022] FCA 665
- *Commonwealth Director of Public Prosecutions v Alkaloids of Australia Pty Ltd* [2022] FCA 1424
- *Director of Public Prosecutions (Cth) v Bingo Industries Pty Ltd* [2024] FCA 121 (2 corporations)
- *Director of Public Prosecutions (Cth) v Aussie Skips Recycling Pty Ltd* [2024] FCA 122

2. Civil pecuniary penalties

2.1 Pecuniary penalty of \$10 million or more on a corporate respondent in 25 cases between 1 January 2016 and 30 June 2024

- *ACCC v Colgate-Palmolive Pty Ltd (No 2)* [2016] FCA 528 (2016)
- *ACCC v Cement Australia Pty Ltd* [2017] FCAFC 159
- *ACCC v Ford Motor Company of Australia Limited* [2018] FCA 703
- *ACCC v We Buy Houses Pty Ltd* [2017] FCA 915
- *Flight Centre Limited v ACCC (No 2)* [2018] FCAFC 53
- *ACCC v Yazaki Corporation* [2018] FCAFC 73
- *ACCC v Volkswagen AG* [2019] FCA 2166
- *ACCC v Cornerstone Investment Aust Pty Ltd (In Liq)* [2019] FCA 1544
- *ACCC v STA Travel Pty Ltd* [2020] FCA 723
- *ACCC v Australian Institute of Professional Education Pty Ltd (in liq) (No 5)* [2021] FCA 1516
- *ACCC v Telstra Corporation Limited* [2021] FCA 502
- *ACCC v Campbell (No 3)* [2021] FCA 528 (Jump Swim)
- *ACCC v Uber BV* [2022] FCA 1466
- *ACCC v Trivago NV (No 2)* [2022] FCA 417
- *ACCC v Samsung Electronics Australia Pty Ltd* [2022] FCA 875

- *ACCC v Telstra Corporation Limited* [2022] FCA 1398
- *ACCC v Optus Internet Pty Limited* [2022] FCA 1397
- *ACCC v Meta Platforms Inc* [2023] FCA 842
- *ACCC v Phoenix Australian ACCC v Phoenix Institute of Australia Pty Ltd (Subject to Deed of Company Arrangement) (No 3)* [2023] FCA 859
- *ACCC v Dell Australia Pty Ltd* [2023] FCA 983
- *ACCC v Techtronic Industries Australia* [2023] FCA 1574
- *ACCC v Mazda Australia Pty Ltd* [2024] FCA 83
- *ACCC v Fitbit* [2023] FCA 1535
- *ACCC v Airbnb Ireland UC* [2023] FCA 1633
- *ACCC v BlueScope Steel Limited (No 6)* [2023] FCA 1029

2.2 Penalty or other sanction on an individual implicated in the corporate contravention in five of the 25 cases listed in 2.1

- *ACCC v Colgate-Palmolive Pty Ltd (No 2)* [2016] FCA 528
- *ACCC v Cement Australia Pty Limited* [2017] FCAFC 159
- *ACCC v Campbell (No 3)* [2021] FCA 528
- *ACCC v We Buy Houses Pty Limited* [2017] FCA 915
- *ACCC v BlueScope Steel Limited (No 6)* [2023] FCA 1029

2.3 Penalty of \$40 million or more in seven of the 25 cases listed in 2.1

- *ACCC v Yasaki Corporation* [2018] FCAFC 73
- *ACCC v Volkswagen AG* [2019] FCA 2166
- *ACCC v Australian Institute of Professional Education Pty Ltd (in liq) (No 5)* [2021] FCA 1516
- *ACCC v Telstra Corporation Limited* [2021] FCA 502
- *ACCC v Trivago NV (No 2)* [2022] FCA 417
- *ACCC v Phoenix Australian ACCC v Phoenix Institute of Australia Pty Ltd (Subject to Deed of Company Arrangement) (No 3)* [2023] FCA 859
- *ACCC v BlueScope Steel Limited (No 6)* [2023] FCA 1029

2.4 Penalty of \$100 million or more in three of the 25 cases listed in 2.1, and a fourth case looks imminent

- *ACCC v Volkswagen AG* [2019] FCA 2166
- *Australian Institute of Professional Education Pty Ltd (in liq) (No 5)* [2021] FCA 1516
- *Phoenix Institute of Australia Pty Ltd (Subject to Deed of Company Arrangement) (No 3)* [2023] FCA 859.

A fourth case looks imminent, namely *ACCC v Qantas Airways Limited* (2024) Federal Court of Australia, Online File, at: <https://www.fedcourt.gov.au/services/access-to-files-and-transcripts/online-files/accc-v-qantas> (penalty of \$100 million agreed to by Qantas and the ACCC, subject to review by the Federal Court).

3. Orders under s 86C and s 86D of Act and s 246 and s 247 of ACL

3.1 Compliance program orders against corporate respondents in 60 cases between 1 January 2011 and 30 June 2024

- *ACCC v First Class Slate Roofing Pty Limited* [2022] FCA 1093
- *ACCC v NQCranes Pty Ltd* [2022] FCA 1383
- *ACCC v Oakmoore Pty Ltd (No 2)* [2018] FCA 1170
- *ACCC v Ultra Tune Australia Pty Ltd* [2019] FCA 12
- *ACCC v Sampson* [2011] FCA 1165
- *ACCC v Cotton On Kids Pty Ltd* [2012] FCA 1428
- *ACCC v Turi Foods Pty Ltd (No 2)* [2012] FCA 19
- *ACCC v MSY Technology Pty Ltd (No 2)* [2011] FCA 382
- *ACCC v Dimmeys Stores Pty Ltd* [2011] FCA 372
- *ACCC v Sontax Australia (1988) Pty Ltd* [2011] FCA 1202
- *ACCC v Eternal Beauty Products Pty Ltd* [2012] FCA 1124
- *ACCC v Meriton Property Services Pty Ltd (No 2)* [2018] FCA 1125
- *ACCC v B & K Holdings (QLD) Pty Ltd t/as FE Sports* [2021] FCA 260
- *ACCC v 117 372 915 Pty Limited (in liq)* [2015] FCA 1087
- *ACCC v Scoopon Pty Ltd* [2014] FCA 820
- *ACCC v Colgate-Palmolive Pty Ltd (No 2)* [2016] FCA 528
- *ACCC v Renegade Gas Pty Ltd (trading as Supagas NSW)* [2014] FCA 1135
- *ACCC v Uber BV* [2022] FCA 1466
- *ACCC v Multimedia International Services Pty Ltd* [2016] FCA 439
- *ACCC v Woolworths Limited* [2016] FCA 44
- *ACCC v STA Travel Pty Ltd* [2020] FCA 723

- *ACCC v FitBit LLC* [2023] FCA 1535
- *ACCC v Optus Internet Pty Limited* [2018] FCA 777]
- *ACCC v Zen Telecom Pty Ltd* [2014] FCA 1049
- *ACCC v We Buy Houses Pty Ltd (No 2)* [2018] FCA 1748
- *ACCC v Panthera Finance Pty Ltd* [2020] FCA 340
- *ACCC v Oscar Wylee Pty Ltd* [2020] FCA 1340
- *ACCC v Bloomex Pty Ltd* [2024] FCA 243
- *ACCC v HealthEngine Pty Ltd* [2020] FCA 1203
- *ACCC v HJ Heinz Company Australia Limited (No 2)* [2018] FCA 1286
- *ACCC v Optus Internet Pty Limited* [2019] FCA 2221
- *ACCC v ABG Pages Pty Ltd* [2018] FCA 764
- *ACCC v Dell Australia Pty Ltd* [2023] FCA 588
- *ACCC v Actrol Parts Pty Ltd* [2015] FCA 312
- *ACCC v TPG Internet Pty Ltd* [2022] FCA 1399
- *Director of Consumer Affairs Victoria v Fletcher & Parker (Balwyn) Pty Ltd* [2017] FCA 1521
- *ACCC v Airbnb Ireland UC* [2023] FCA 1633
- *ACCC v Australian Private Networks Pty Ltd (trading as Activ8me)* [2019] FCA 384
- *ACCC v Lorna Jane Pty Ltd* [2021] FCA 852
- *ACCC v Google LLC (No 4)* [2022] FCA 942
- *ACCC v Optus Internet Pty Limited* [2022] FCA 1397
- *ACCC v Mazda Australia Pty Ltd (No 3)* [2024] FCA 83
- *ACCC v Reebok Australia Pty Ltd* [2015] FCA 83
- *ACCC v Ozsale Pty Limited* [2016] FCA 1049
- *ACCC v EnergyAustralia Pty Ltd* [2015] FCA 274
- *ACCC v Landmark Operations Limited (t/a Seednet)* [2018] FCA 1977
- *ACCC v Sumo Power Pty Ltd* [2021] FCA 712
- *ACCC v Fujifilm Business Innovation Australia Pty Ltd* [2022] FCA 928
- *ACCC v Gordon Superstore Pty Ltd* [2014] FCA 452
- *ACCC v Google Inc* [2012] FCAFC 49
- *ACCC v Grays Ecommerce Group Limited* [2024] FCA 771
- *ACCC v Pepe's Ducks Ltd* [2013] FCA 570
- *ACCC v Camavit Pty Ltd* [2013] FCA 1397

- *ACCC v SmileDirectClub LLC* [2022] FCA 1343
- *ACCC v Origin Energy Electricity Limited* [2015] FCA 278
- *ACCC v AGL South Australia Pty Ltd* [2015] FCA 399
- *ACCC v Aveling Homes Pty Ltd* [2017] FCA 1470
- *ACCC v amaysim Energy Pty Ltd (trading as Click Energy)* [2019] FCA 430
- *ACCC v Jewellery Group Pty Limited (No 2)* [2013] FCA 14
- *ACCC v Derodi Pty Ltd* [2016] FCA 365
- *ACCC v ACM Group Limited (No 3)* [2018] FCA 2059
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3.2 Corrective advertising orders under s 86C(2)(d) of the Act and s 246(2)(d) of the ACL against corporate respondents in 26 cases between 1 January 2011 and 30 June 2024

- *ACCC v Jewellery Group Pty Limited (No 2)* [2013] FCA 14
- *ACCC v TPG Internet Pty Ltd (No 2)* [2012] FCA 629
- *ACCC v ACM Group Limited (No 3)* [2018] FCA 2059
- *ACCC v Uber BV* [2022] FCA 1466
- *ACCC v Derodi Pty Ltd* [2016] FCA 365
- *ACCC v iSelect Limited* [2020] FCA 1523
- *Director of Consumer Affairs Victoria v The Reject Shop Ltd* [2018] FCA 211
- *ACCC v Online Dealz Pty Ltd* [2016] FCA 732
- *ACCC v Marksun Australia Pty Ltd* [2011] FCA 695
- *ACCC v Zen Telecom Pty Ltd* [2014] FCA 1049
- *Commissioner for Consumer Affairs (SA) v Star Plus Group Pty Ltd (in liq)* [2023] FCA 778
- *ACCC v P & N Pty Ltd* [2014] FCA 6
- *ACCC v Oscar Wylee Pty Ltd* [2020] FCA 1340
- *ACCC v Turi Foods Pty Ltd (No 2)* [2012] FCA 19
- *ACCC v Social-Lites Pty Ltd* [2017] FCA 398
- *ACCC v AGL South Australia Pty Ltd* [2015] FCA 399
- *ACCC v Aveling Homes Pty Ltd* [2017] FCA 1470
- *ACCC v Actrol Parts Pty Ltd* [2015] FCA 312
- *ACCC v amaysim Energy Pty Ltd (trading as Click Energy)* [2019] FCA 430
- *ACCC v Hillside (Australia New Media) Pty Ltd trading as Bet365 (No 2)* [2016] FCA

- *ACCC v Reebok Australia Pty Ltd* [2015] FCA 83
- *ACCC v Lorna Jane Pty Ltd* [2021] FCA 852
- *ACCC v Australian Private Networks Pty Ltd (trading as Activ8me)* [2019] FCA 384
- *ACCC v A Whistle & Co (1979) Pty Limited* [2015] FCA 1447
- *ACCC v Origin Energy Electricity Limited* [2015] FCA 278
- *ACCC v SmileDirectClub LLC* [2022] FCA 1343

3.3 Information disclosure orders under s 86C(2)(c) of the Act and s 246(2)(c) of the ACL against corporate respondents in 10 cases between 1 January 2011 and 30 June 2024

- *ACCC v B & K Holdings (QLD) Pty Ltd t/as FE Sports* [2021] FCA 260
- *ACCC v ACM Group Limited (No 3)* [2018] FCA 2059
- *ACCC v Mazda Australia Pty Ltd (No 3)* [2024] FCA 83
- *ACCC v Dell Australia Pty Ltd* [2023] FCA 588
- *ACCC v HealthEngine Pty Ltd* [2020] FCA 1203
- *ACCC v Actrol Parts Pty Ltd* [2015] FCA 312
- *ACCC v Pepe's Ducks Ltd* [2013] FCA 570
- *ACCC v Origin Energy Electricity Limited* [2015] FCA 278
- *ACCC v ACN 117 372 915 Pty Limited (in liq) (formerly Advanced Medical Institute Pty Limited)* [2015] FCA 1087
- *ACCC v Quantum Housing Group Pty Ltd (No 2)* [2020] FCA 802

3.4 Adverse publicity orders under s 86D and adverse publicity orders under s 247 of the ACL against corporate respondents in 18 cases between 1 January 2011 and 30 June 2024

- *ACCC v J Hutchinson Pty Ltd (No 2)* [2022] FCA 1007
- *ACCC v TPG Internet Pty Ltd (No 2)* [2012] FCA 629
- *ACCC v Ashton Raggatt McDougall Pty Ltd* [2023] FCA 351
- *ACCC v Techtronic Industries Australia Pty Ltd* [2023] FCA 1574
- *ACCC v Jewellery Group Pty Limited (No 2)* [2013] FCA 14
- *ACCC v ACM Group Limited (No 3)* [2018] FCA 2059
- *Director of Consumer Affairs Victoria v Wens Bros Trading Pty Ltd* [2019] FCA 39
- *ACCC v Sony Interactive Entertainment Network Europe Limited* [2020] FCA 787
- *ACCC v Mazda Australia Pty Ltd (No 3)* [2024] FCA 83

- *Director of Consumer Affairs Victoria v Daiso Industries (Australia) Pty Ltd (No 3)* [2017] FCA 1488
- *ACCC v TPG Internet Pty Ltd (No 2)* [2012] FCA 629
- *Director of Consumer Affairs Victoria v Dimmeys Stores Pty Ltd* [2013] FCA 1371
- *Director of Consumer Affairs Victoria v Alpha Flight Services Pty Ltd* [2014] FCA 1434
- *ACCC v AA Machinery Pty Ltd* [2021] FCA 1293
- *Director of Consumer Affairs Victoria v Fletcher & Parker (Balwyn) Pty Ltd* [2017] FCA 1521
- *Director of Consumer Affairs Victoria v Manningham Property Group Pty Ltd* [2017] FCA 1448
- *ACCC v We Buy Houses Pty Ltd (No 2)* [2018] FCA 1748
- *ACCC v Thermomix in Australia Pty Limited* [2018] FCA 556

3.5 Two community service orders under s 86C(a) of the Act and s 246(2)(a)(aa) of the ACL between 1 January 2011 and 30 June 2024

- *ACCC v Scoopon Pty Ltd* [2014] FCA 820
- *ACCC v Startel Communication Co Pty Ltd* [2014] FCA 352

4. Orders under s 86E of Act and s 248 of ACL

4.1 Disqualification orders under s 86E of the Act or s 248 of the ACL were made against individuals in 25 cases between 1 January 2011 and 30 June 2024

- *Director of Public Prosecutions (Cth) v Tartak* [2024] FCA 121
- *Director of Public Prosecutions (Cth) v Roussakis* [2024] FCA 122
- *Director of Public Prosecutions (Cth) v Joyce* [2022] FCA 1423
- *ACCC v Renegade Gas Pty Ltd (trading as Supagas NSW)* [2014] FCA 1135
- *ACCC v Colgate-Palmolive Pty Ltd (No 2)* [2016] FCA 528
- *ACCC v Excite Mobile Pty Ltd (No 2)* [2013] FCA 1267
- *ACCC v SensaSlim Australia Pty Ltd (in liq) (No 7)* [2016] FCA 484
- *ACCC v Oakmoore Pty Ltd (No 2)* [2018] FCA 1170
- *Director, Consumer Affairs Victoria v Vic Solar Pty Ltd (No 4)* [2021] FCA 449
- *ACCC v Geowash Pty Ltd (Subject to a Deed of Company Arrangement) (No 4)* [2020] FCA 23
- *ACCC v Clinica Internationale Pty Ltd (No 2)* [2016] FCA 62
- *Commissioner for Fair Trading v Digital Marketing and Solutions Pty Ltd (ACN 614 430 983) trading as Android Enjoyed and Camerasky & Anor* [2019] NSWSC 370

- *ACCC v Harrison (No 2)* [2017] FCA 182
- *Director of Consumer Affairs Victoria v Dimmeys Stores Pty Ltd* [2013] FCA 1371
- *ACCC v Stott* [2013] FCA 88
- *ACCC v Safety Compliance Pty Ltd (in liq) (No 2)* [2015] FCA 1469
- *ACCC v Smart Corporation Pty Ltd (No 3)* [2021] FCA 347
- *ACCC v We Buy Houses Pty Ltd (No 2)* [2018] FCA 1748
- *ACCC v Domain Name Corp Pty Ltd* [2018] FCA 1269
- *ACCC v South East Melbourne Cleaning Pty Ltd (in liq) (formerly known as Coverall Cleaning Concepts South East Melbourne Pty Ltd)* [2015] FCA 25
- *ACCC v Quantum Housing Group Pty Ltd (No 2)* [2020] FCA 802
- *ACCC v Get Qualified Australia Pty Ltd (in liquidation) (No 3)* [2017] FCA 1018
- *ACCC v Safe Breast Imaging Pty Ltd (No 2)* [2014] FCA 998
- *ACCC v ABG Pages Pty Ltd* [2018] FCA 764
- *ACCC v Halkalia Pty Ltd (No 2)* [2012] FCA 535

5. Civil cases where penalty settled

5.1 15 cases where the parties agreed on the amount of the penalty to be imposed out of the 25 cases between 1 January 2016 and 30 June 2024 where a penalty of \$10 million or more was imposed on a corporate respondent

- *ACCC v Colgate-Palmolive Pty Ltd (No 2)* [2016] FCA 528 (2016)
- *ACCC v Ford Motor Company of Australia Limited* [2018] FCA 703
- *ACCC v Volkswagen AG* [2019] FCA 2166
- *ACCC v STA Travel Pty Ltd* [2020] FCA 723
- *ACCC v Telstra Corporation Limited* [2021] FCA 502
- *ACCC v Campbell (No 3)* [2021] FCA 528 (Jump Swim)
- *ACCC v Uber BV* [2022] FCA 1466
- *ACCC v Samsung Electronics Australia Pty Ltd* [2022] FCA 875
- *ACCC v Telstra Corporation Limited* [2022] 1398
- *ACCC v Optus Internet Pty Limited* [2022] FCA 1397
- *ACCC v Meta Platforms Inc* [2023] FCA 842
- *ACCC v Dell Australia Pty Ltd* [2023] FCA 983

- *ACCC v Techtronic Industries Australia* [2023] FCA 1574
- *ACCC v Fitbit* [2023] FCA 1535
- *ACCC v Airbnb Ireland UC* [2023] FCA 1633