

**CIVIL PECUNIARY PENALTIES UNDER AUSTRALIAN COMPETITION  
AND CONSUMER LEGISLATION:**

**THE RARITY OF INDIVIDUAL LIABILITY OR ACCOUNTABILITY AND THE  
FANTASY OF DETERRENCE**

**Brent Fisse**

**January 2026**

**I A GAP ANALYSIS OF CIVIL PECUNIARY PENALTIES,  
DETERRENCE, AND ACCOUNTABILITY**

Serious breaches of law by or on behalf of large corporations are unlikely to be deterred effectively unless corporate liability is accompanied by individual liability and/or enforced individual accountability within the corporation liable. Yet individual liability or accountability is rarely threatened or enforced under the civil pecuniary penalty regime that underpins Australian competition and consumer law. That being so, claims made by legislators, judges, the Australian Competition and Consumer Commission (ACCC) and others about the deterrent effects of civil pecuniary penalties call for scrutiny. Scrutiny shows that many of the claims are unfounded and misleading.

Part II shows the rarity of enforcement actions for civil penalties against individuals under the Competition and Consumer Act 2010 (Cth) and the Australian Consumer Law (the legislation) during 2016-2025.

Part III uncovers the rarity of individual accountability as a significant factor in judicial determination of civil pecuniary penalties against corporations in major cases under the legislation during 2016-2025.

Part IV scrutinises what legislators, judges, the ACCC and others have claimed about the deterrent efficacy of civil pecuniary penalties under the legislation. Those claims fail to address the rarity of individual liability or accountability and in that respect are fundamentally flawed and unpersuasive.

Part V sets out what could be done to make deterrence real in the civil pecuniary penalty regime upon which the efficacy of Australian competition and consumer legislation much depends.