

SHOP TALK

ISSUES AND NEWS AFFECTING THE AUSTRALIAN SHOPPING CENTRE INDUSTRY

FRIDAY 23 FEBRUARY 2018

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ACCC RELEASES 2018 COMPLIANCE AND ENFORCEMENT POLICY AND PRIORITIES

This week, the Chairman of the Australian Competition and Consumer Commission (ACCC), Rod Sims, [released](#) the ACCC's 2018 Compliance and Enforcement Policy and Priorities document. The document details 12 specific priorities for 2018, including "ensuring small business receives the protections of industry codes and the unfair contract terms law, with a focus on Franchising Code of Conduct issues involving large or national franchisors", in addition to five 'enduring priorities', including anti-competitive conduct and cartel conduct. In his [speech](#) launching the priorities, Mr Sims specifically noted that "small business can expect us to continue our work in relation to Unfair Contracts Terms business-to-business". Mr Sims also reflected on the Harper Competition Policy Review ([Shop Talk 26/11/15](#)), and the reforms which have since flowed, including amendments to the misuse of market power provisions of the *Competition and Consumer Act*. He also drew attention to a Bill recently tabled in the Federal Parliament which [proposes](#) to increase the maximum penalties for breaches of the Australian Consumer Law (ACL), noting that this reform proposal flowed out of the recommendations from the recently completed ACL Review ([Shop Talk 21/4/17](#)). The [Treasury Laws Amendment \(2018 measures no. 3\) Bill 2018](#), tabled last week by Assistant Minister to the Treasurer, Michael Sukkar, seeks to increase the current maximum penalty of \$1.1 million for a body corporate and \$220,000 for a person, to the greater of \$10 million, or three times the value of the benefit obtained from the offence, if that benefit can be determined, or 10 per cent of the annual turnover for a body corporate, and \$500,000 for a person. As noted in the Minister's speech to the Parliament, "the offences that carry the maximum penalty include unconscionable conduct, a range of unfair practices—such as misleading and deceptive conduct—offences related to product safety and offences related to information standards". This proposed increase in maximum penalties will bring ACL penalties into line with the maximum penalties under the competition provisions of the Act.

FINAL ARRANGEMENTS FOR NSW GIFT CARD REFORMS RELEASED

Late last week, NSW Fair Trading [released](#) a series of FAQs and a [Statement of Regulatory Intent](#) to assist inform the implementation and enforcement of the NSW Government's reform of gift cards ([Shop Talk 1/12/17](#)). From 31 March 2018, a gift card sold to a consumer in NSW must have a minimum three-year expiry period. The FAQs clarify a range of matters, including that the new law does not apply to the replacement of lost or stolen cards. Information has also been provided regarding the duration and conditions of the transition period, which has been established to allow card issuers to run down existing gift card stock. An updated, final [Regulation](#) has also been issued which details a range of circumstances where a gift card would be exempt from the new regime, including "a card or voucher supplied as part of a customer loyalty or employee rewards program".

IMPLEMENTATION OF QUEENSLAND CONTAINER DEPOSIT SCHEME DEFERRED

The implementation of the Container Deposit Scheme in Queensland will be pushed back from 1 July to 1 November 2018 ([Shop Talk 24/3/17](#)). In a related [media release](#), the Minister for Environment, Leeanne Enoch, noted that Queensland did not want to encounter roll-out issues similar to those in NSW, specifically mentioning the need for "enough container refund points from the outset...". While shopping centres are considered desirable locations for refund points, participation is (and should remain) voluntary and agreed on a commercial basis.

VICTORIAN FIRE SERVICES LEVY TO REMAIN STATIC FOR ANOTHER TWO YEARS

The Victorian Treasurer, Tim Pallas, last week announced that the revenue collected via the Fire Services Property Levy will not increase for at least another two years. In an associated [media release](#), it is noted that "this means that Victorian property owners in each land use category will, on average, contribute the same or in some cases less, to the levy over the next two years".

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