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COMPETITION & REGULATION UPDATE

HEALTH SECTOR UNDER ACCC SPOTLIGHT IN 2015

"We believe there are both competition and consumer issues in the medical and health sector which need increased attention. "

Rod Sims, Chairman, Australian Competition and Consumer Commission

ACCC ENFORCEMENT PRIORITIES

The Australian Competition and Consumer Commission (ACCC) has released its enforcement priorities for 2015, with the Chairman of the ACCC giving a speech on the topic last week. Each year, the ACCC nominates its key areas of focus for the upcoming year. This can assist businesses in settling their compliance activities and in identifying risk areas that should be pro-actively addressed.

A FOCUS ON PRIVATE HEALTH INSURANCE INFORMATION

The Chairman of the ACCC specifically referred to a review of the private health insurance industry commenced by the ACCC in 2014. The review is focussed on:

"assessing the adequacy and transparency of information about private health insurance and the impact it may have on consumers and competition more broadly."

In November 2014, the ACCC released a report on the comparator website industry in Australia which outlined some issues that may cause concern, primarily under the Australian Consumer Law. The ACCC also indicated that they would release further detailed guidance for comparator website operators and businesses that utilise comparator websites, with the aim of assisting these businesses to comply with competition and consumer laws. This further guidance is still pending.

The Chairman stated in his speech that market reviews support the ACCC's compliance and enforcement approach. This is evident from recent years. For example, the ACCC undertook studies of door to door selling practices and shortly after initiated a number of court proceedings against companies in relation to those practices.

A FOCUS ON THE MEDICAL AND HEALTH SECTOR

More generally, the ACCC has nominated the medical and health sector as a new enforcement priority for 2015. The Chairman stated that there were a number of competition and consumer law issues that had come to the attention of the ACCC and upon which they would focus on in 2015, including attempts to limit access to products, patients, procedures or facilities, unconscionable conduct and misleading and deceptive conduct.

OTHER AREAS OF FOCUS FOR THE ACCC

The ACCC announced its continuing focus on a number of areas, including the following:

- **Cartels** - the Chairman of the ACCC noted that the ACCC has approximately 12 in-depth cartel investigations currently underway. Further, it has established a new group dedicated to investigating serious cartel conduct, including criminal cartel conduct.
- **Consumer issues in the online marketplace** - the Chairman noted that the ACCC will concentrate on ensuring that consumer complaints are addressed by online businesses in an appropriate and timely manner.
- **Truth in advertising** - the Chairman commented that untruthful advertising can cause significant harm to consumers and competitors. The ACCC will prioritise matters where misleading claims are made by large businesses with the potential to result in significant consumer detriment or where the conduct is, or is likely to be without ACCC intervention, widespread.

NEXT STEPS

To ensure you don't become a target for the ACCC, it is important to:

- assess your risk based on the ACCC's areas of focus in 2015;
- proactively address any identified risks; and
- ensure on-going compliance measures are in place.

MORE INFORMATION

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