

COMMERCIAL LAW BRIEF

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Following is a snap shot summary of some recent developments in the commercial sector which may be important to your business.

For further information regarding these issues, please contact our Managing Partner Philip Barton on (03) 9672 2666 or pnb@andrice.com.au, who will direct your enquiry to the appropriate lawyer.



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ACCC

- **New Australian Consumer Law** - The new Australian Consumer Law provisions commenced on 1 January 2011. As part of the changes, the *Trade Practices Act 1974* (Cth) has been replaced by the *Competition and Consumer Act 2010* (Cth). The ACCC stated in a recent [media release](#) that the new legislation harmonises consumers' rights and unfair selling practices. *Manufacturing clients will need to amend their trading Terms and Conditions to reflect these changes.*

ASIC

- **Improving transparency of ASIC relief decisions** - ASIC has released a report outlining measures designed to improve the level of transparency and the quality of publicly available information about how it uses its discretionary powers to grant relief to companies from provisions of the *Corporations Act 2001* (Cth) - [ASIC Media Centre and Report](#)

Insolvency

- **Bankruptcy Reforms** - The Attorney-General's Department recently announced in a [press release](#) that from 1 December 2010 reforms to bankruptcy legislation would come into effect. One of the major changes concerns an increase in the minimum amount for which a creditor can issue a petition for bankruptcy. *This will impact upon creditors' rights to utilise the current insolvency regime for recovery of unpaid debts.*

PPS Act Update

- **Introduction of PPS Registry delayed** - The Attorney-General's Department recently announced in a [press release](#) that introduction of the new Personal Property Securities Register has been deferred until October 2011. *Suppliers of goods and services whose terms and conditions purport to provide an entitlement to a personal security interest should review those terms and conditions and consider the implications of the new Personal Property Securities Act 2009* (Cth).

Employment

- **Employer Alert** - In 2009, new unfair dismissal provisions came into effect as part of the Fair Work Act 2009 (Cth). These provisions greatly increased the number of employees who can seek remedies (reinstatement and/or compensation) from Fair Work Australia. The Act also created new 'workplace rights' which include freedom of association, lawful industrial activity and protection against workplace discrimination and sham arrangements for independent contractors. In light of these recent changes, *it is essential that employers take proactive measures including reviewing their policies and procedures to ensure compliance and minimise the risk of litigation and potential prosecution.*

Courts

- The Victorian Supreme Court has published important information on its [website](#) concerning the operation of the new *Civil Procedure Act 2010* (Vic). From 1 January 2011 there are new certification requirements when issuing civil proceedings and filing certain court documents in all Victorian jurisdictions except VCAT. The Act also imposes important new obligations on parties to a dispute **prior** to the commencement of legal proceedings. Known as the 'mandatory pre-litigation requirements', these changes were due to take effect on 1 July 2011. However, the new Victorian government has recently introduced (but not yet passed) a bill to repeal these requirements and empower the courts to impose them as they see fit. Click [here](#) to access the Bill's Statement of Compatibility and the Second Reading Speech.

Commercial Practice

- **Securitisation of credit** - Don't overlook the basics in this difficult economic climate - always seek to obtain a guarantee to support a credit application.
- **Debtor management** - 'Creditor Watch' is a subscription-based online service that enables users to share information about bad debtors in order to identify potential credit risks. The platform allows users to report bad debtors and to receive alerts that notify them about high-risk organisations. Might be worth a look... www.creditorwatch.com.au
- **Cash Flow Concerns** - Anderson Rice owns and operates a licensed mercantile agency, Target Collections Pty Ltd (ACN 080 844 499), providing clients with a full range of credit management services, including *no win / no fee* debt recovery . Target Collections utilises up-to-date computer systems to effectively manage collection of accounts. Its processes are fully automated to ensure timely actioning and reporting of all accounts. Target Collections is different from other collection agencies because it allows its clients to view the current status of all current matters live on the web. Please contact Michael Coldham on (03) 9672 2601 or visit www.targetcollections.com.au for further information.

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