

# Corporate Reporter

23 APRIL 2015

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**Welcome to** Issue No. 34 of Corporate Reporter, Bell Gully's regular round-up of corporate and general commercial matters, designed to keep you informed on regulatory developments, legislation and cases of interest.

## IN BRIEF

Items in this issue include:

- Consultation on regulations for Phase 1 of the proposed Health and Safety at Work Act;
  - An update on changes to the credit contracts and consumer finance regime;
  - The latest FMA consultations on Financial Markets Conduct Act implementation issues;
  - New developments for NZX/ASX dual-listed issuers;
  - Misuse of market power provisions back in spotlight after ACCC's loss against Pfizer;
  - NZX consults on the penalty provisions in the NZ Markets Disciplinary Tribunal Rules;
  - The latest media releases from the New Zealand Commerce Commission and the Australian Competition and Consumer Commission.
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## COMMERCIAL

### Regulatory developments

#### Update on changes to the CCCFA regime

##### Responsible Lending Code finalised

In March the Minister of Commerce and Consumer Affairs released the [Responsible Lending Code](#), which sets out detailed guidance for lenders on how to comply with the new lender responsibility principles (LRPs) introduced as part of wider amendments to the Credit Contracts and Consumer Finance Act 2003 (CCCFA) last year. In drafting the Code, the Ministry of Business, Innovation and Employment (MBIE) has sought to strike a balance between consumer protection and lenders' compliance costs.

The amendments to the CCCFA which introduce the LRPs come into force on 6 June 2015 and the Code will also apply from that date.

The introduction to the Code states that the Code is not binding and that it is not an exhaustive statement of what a lender should or should not do in order to be a responsible lender. Lenders are able to comply with the LRPs in ways that are not specified in the Code. Compliance with the Code also does not offer lenders a "safe harbour", as although compliance with the Code will be treated as evidence of a lender's compliance with the LRPs, Code compliance is not deemed to be compliance with the LRPs.

MBIE has also released the submissions it received on the December 2014 [Responsible Lending Code Discussion Document](#). These are available [here](#).

##### Amendments to regulations under the CCCFA

The [Credit Contracts and Consumer Finance Amendment Regulations 2015](#) have been enacted (and will come into force on 6 June 2015) to:

- give effect to new costs of borrowing and initial disclosure obligations, specifically to:
  - prescribe the "costs of borrowing" information which lenders must make publicly available; and
  - update model disclosure forms (to reflect the additional key information which lenders must disclose to borrowers prior to entering a credit agreement);
- prescribe a minimum repayment warning for credit card statements; and
- provide formulae for creditors to calculate proportionate rebates of repayment waivers and extended warranties upon prepayment.

The regulations also provide for exemptions from the application of certain provisions of the CCCFA to Voluntary Targeted Rate (VTR) schemes offered by local and regional councils.

##### Further regulations to come

MBIE are also developing regulations to exempt securitisation arrangements from certain obligations (e.g. obligations to disclose transfer of a credit agreement) and to support the new infringement regime introduced by the Credit Contracts and Consumer Finance Amendment Act 2014.

These regulations will be in place before 6 June 2015.

## Unfair Contract Terms Guidelines for credit contracts

The Commerce Commission has indicated that it will not be providing any grace period for businesses in the enforcement of the new unfair contract terms provisions of the Fair Trading Act 1986 which took effect on 17 March 2015.

The Commission will be targeting contracts in industries that have proven problematic overseas or where the Commission has received complaints in the past. This includes credit contracts provided by lower-tier finance lenders. For further details see the Commission's media release [here](#).

For Bell Gully commentary on the application of the Commerce Commission's [Unfair Contract Terms Guidelines](#) and the unfair contract terms provisions to credit contracts, see our earlier client update [here](#).

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## Consultation on exposure drafts of phase one regulations for the proposed Health and Safety at Work Act

The Ministry of Business, Innovation and Employment has released exposure drafts of regulations required to support the Health and Safety Reform Bill for further consultation before the regulations are finalised.

The regulations have been drafted in consultation with Safe Work Australia, practitioners and industry experts and will come into force at the same time as the principal Act. The regulations cover the following three areas:

- general risk and workplace management;
- major hazard facilities; and
- asbestos.

Copies of these draft regulations are available on the Ministry's website [here](#) and submissions for all three exposure drafts close on **15 May 2015**.

Regulations still to come include:

- administrative regulations that detail infringement offences and fees in phase one regulation, and prescribe a standard infringement notice (which are expected to be released for consultation by the end of April 2015);
- worker participation, engagement and representation regulations (which will not be released until after the Bill has been reported back to Parliament); and
- regulations for work involving hazardous substances (which are expected to be ready for release around November 2015).

The Bill, which will create the new Health and Safety at Work Act and replace the Health and Safety in Employment Act 1992 (**HSE Act**), is currently before Parliament and is expected to pass later this year.

The Transport and Industrial Relations Committee is to report back to the House on the Bill by 29 May 2015.

### Transfer of HSE Act regulations

The Ministry is also consulting on exposure drafts of regulations made recently under the HSE Act for the mining, petroleum and adventure activities sectors which will be transferred into the new regime with minor amendments to align them with new terminology and structure in the Bill and to correct any drafting errors. To view those exposure drafts [click here](#).

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## New Zealand Business Number Bill introduced

A Bill which sets out the details of allocating the New Zealand Business Number (**NZBN**) beyond registered companies to all New Zealand business entities has been introduced and is currently awaiting its first reading.

The NZBN is a 13-digit number, a consistent identifier which when used by businesses and government provides opportunities for businesses to register and share their information and streamline dealings with government and other businesses.

A copy of the Bill is available [here](#).

Submissions will be able to be made on the Bill during the Select Committee phase of the Bill.

For NZBN-related information go to: <http://www.mbie.govt.nz/what-we-do/better-for-business/nzbn>

## COMPANY LAW

### News from the Companies Office

#### Summary of the financial reporting changes

The Companies Office has updated its website to provide a summary of the financial reporting changes introduced by the Financial Reporting Act 2013 and the Financial Reporting (Amendments to Other Enactments) Act 2013. The summary is available [here](#).

The Companies Office has also provided a comparative table showing the differences between the financial reporting requirements for various entities under the Financial Reporting Act 1993 and the new financial reporting regime. This table is available to view [here](#).

For most entities, the new financial reporting regime applies to reporting periods beginning on or after 1 April 2014.

#### Companies Act changes in force from 1 May 2015

Under the amendments to the Companies Act made by the Companies Amendment Act 2014, all New Zealand companies incorporated from 1 May 2015 will be required to:

- provide the dates and places of birth for all directors (these will not be publicly available);
- ensure that the company being incorporated has at least one director that either lives in New Zealand; or lives in Australia and is a director of a company incorporated in Australia;
- indicate whether any director living in Australia is also a director of a company incorporated in Australia and provide the details of one of those Australian companies (including the ACN, name and registered office address); and
- provide, if applicable, details of any company that has ultimate control of a registered company, and is not itself a subsidiary of any other company.

Also, when adding a new director to any New Zealand company the date and place of birth needs to be provided for the director.

For details of other amendments to the Companies Act coming into force this year see the Companies Office's website [here](#).

## MERGERS AND ACQUISITIONS

### Takeovers Panel releases

#### Panel undertakes further consultation on relief for “small code companies”

The Takeovers Panel has undertaken a follow-up consultation on a proposal to grant a class exemption for “small code companies” with a view to minimising their compliance costs.

The Panel stated in its initial consultation paper (in October 2014) that it believed that such an exemption was not required, but submissions received on that paper convinced the Panel that the costs of Takeovers Code compliance can be disproportionate to the benefits of Code compliance in some instances for small code companies.

The Panel is now proposing to grant a class exemption for any person who increases their holding or control of voting rights in a “small code company” as a result of an allotment of voting securities by the code company. The exemption would be subject to an opt out/opt in regime whereby the board of the company could decide that it is in the company's best interests to opt out of Code compliance and, if they did opt out, shareholders could vote to opt back into Code compliance.

This exemption would not apply to takeover transactions, acquisitions of existing share parcels, changes of control of such parcels, or buybacks.

The Panel considers that there should be a clear bright line test for determining the threshold for eligibility for the exemption, and is proposing that it should be for companies that have total assets of \$20 million or less at the balance date of the company's most recent accounting period, as reflected in the company's accounting records.

Further details on this proposal are available [here](#).

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### Guidance for directors

The Takeovers Panel has released the guides – ‘The Takeovers Code: a quick guide for directors’, and ‘A Basic Guide for Directors about the Takeovers Code’ to help directors of code companies to understand their obligations under the Takeovers Code. The Guide is also aimed at assisting directors to understand the Code's rules when a person wants to increase their level of ownership of the company, for example, by making a Takeover Offer under the Takeovers Code.

The guides are available [here](#).

## Latest issue of Code Word

The March 2015 edition of the Takeovers Panel's newsletter, the [Code Word](#) is available on the Panel's website. It includes discussion on the additional disclosures required for independent adviser applications and the Panel's changes to the Guidance Note on schemes of arrangement and amalgamations under Part 15 of the Companies Act 1993.

## CAPITAL MARKETS

### Regulatory developments

#### Financial adviser regime under review

The terms of reference for the review of the Financial Advisers Act 2008 (**FAA**) and the Financial Service Providers (Registration and Dispute Resolution) Act 2008 (**FSP Act**) have been released and are available [here](#).

The review is being led by the Ministry of Business, Innovation and Employment in conjunction with the Financial Markets Authority, the Commission for Financial Capability and Treasury, and will involve an 18-month review process.

An issues paper is expected to be released in early May 2015 for consultation, and this will be followed by an options paper which is expected to be available for consultation before the end of the year.

The final report on the operation of both the FAA and FSP Act will be provided to the Minister of Commerce and Consumer Affairs by 1 July 2016. This report will include any recommendations for changes arrived at after the options paper consultation process.

#### Non-bank Deposit Takers (Revocations and Amendments of Exemptions) Notice 2015

This [notice](#) amended the Deposit Takers (Charities) Exemption Notice 2014 and revoked the following notices:

- Deposit Takers (Banks' Regulatory Capital) Exemption Notice 2014:
- Deposit Takers (Insurance Australia Group Limited) Exemption Notice 2012:
- Deposit Takers (Public Trust) Exemption Notice (No 2) 2010.

The notices have been revoked because the entities they apply to are now declared not to be non-bank deposit takers (**NBDTs**) for the purposes of the Non-bank Deposit Takers Act 2013, so long as certain circumstances apply. That declaration is made by the Non-bank Deposit Takers (Declared-out Entities) Regulations 2015, which were discussed in the previous issue of Corporate Reporter [here](#).

The amendments to the Deposit Takers (Charities) Exemption Notice 2014 also reflect the fact that some of the entities the notice applies to are now declared by the Non-bank Deposit Takers (Declared-out Entities) Regulations 2015 not to be NBDTs for the purposes of the Act (so long as certain circumstances apply).

## Financial Markets Authority (FMA)

### FMA releases updated Derivatives Issuer Standard Conditions

FMA has updated the standard conditions for derivatives issuers licensed under the Financial Markets Conduct Act 2013. These now include a condition (see condition 12) requiring the issuer to assess whether the product is suitable for the client. This is to reduce the possibility of derivatives being sold to people who do not have the ability to understand the derivatives or the risks involved.

This new standard condition only applies to transactions entered into on or after 1 December 2015. No review and assessment of transactions entered into before 1 December 2015 is required under the new condition.

A copy of the updated standard conditions (dated 14 April 2015) is available [here](#).

For background information on the development of the new standard condition on suitability [click here](#).

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### FMA guidance on the PDS for investors

The FMA has published a [guide](#) on its website to help investors understand how the new Product Disclosure Statement (**PDS**) required under the Financial Markets Conduct Act 2013 for regulated offers of financial products works.

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### Latest FMA consultations on FMC Act implementation issues

Over the last few weeks FMA has been engaged in a number of consultations relating to the implementation of the Financial Markets Conduct Act 2013 (**FMC Act**). These include the following:

- **Wholesale investor exclusion relating to \$750,000 minimum investments**  
FMA is consulting on the requirements of the \$750,000 investment exclusion (in clause 3(3)(b) of Schedule 1 of the FMC Act) to help determine if a class exemption is appropriate. Market participants have raised concerns that the requirement for a prescribed warning statement and an investor acknowledgement is not practical in some circumstances and, among other things, could lead to fewer offers being made by overseas-based issuers in New Zealand. For further details [click here](#).
- **Proposed financial reporting exemptions for overseas bankers and insurers**  
FMA has consulted on exemptions for overseas banks that are registered in New Zealand and overseas insurers that are licensed in New Zealand from most of the obligations that apply to FMC reporting entities under the FMC Act, on the condition that financial information is still available to the New Zealand public. The proposed exemptions recognise that the Reserve Bank of New Zealand will have already assessed their financial reporting and audit requirements to be adequate when it registers these overseas banks and licenses these overseas insurers.
- **Proposed financial reporting exemptions for small and medium-sized licensed DIMS providers**  
FMA is consulting on a class exemption for small and medium-sized licensed DIMS providers from certain financial reporting obligations under the FMC Act. FMA is concerned that the costs for small and medium-sized licensed DIMS providers to produce audited financial statements (as is required for FMC reporting entities) may outweigh the benefit of providing such statements to clients. The proposed exemption will

gradually introduce reporting and auditing requirements based on the size of the DIMS provider. For further details [click here](#).

- **Preliminary feedback on Financial Markets Conduct Act exemptions**

FMA has sought preliminary comments on whether the following ten matters should receive support through the FMA's legislative tools (that is, class exemptions, frameworks, or methodologies and designations):

- offers under foreign regimes;
- recognition of overseas audit regimes;
- charities raising funds by debt securities;
- funds raised through venture capital schemes;
- communal facilities offered with real property;
- interests in legal entities established for managing costs and providing services;
- racing livestock ownership syndicates;
- pre-payment facilities;
- small co-operatives; and
- employee share purchase schemes.

FMA expect to consult in May and June this year on the more detailed proposals which are developed from this consultation round. For further details [click here](#).

## Further FMA governance information sheets released

FMA has released four new information sheets summarising key accountabilities and responsibilities, under the Financial Markets Conduct Act 2013 (**FMC Act**), for the following areas:

- [Custodians of managed investment schemes](#), which outlines the duties and responsibilities for custodians of registered managed investment schemes;
- [Related-party transactions](#), which discusses the rules on related-party transactions that apply to managed investment schemes;
- [Reporting SIPO limit breaks](#), which details the reporting obligations of a managed investment scheme manager if there has been a limit break under its Statement of Investment Policy and Objectives (**SIPO**); and
- [Issuers' Registers of Regulated Products and the FMA's Discretion under Section 224](#), which outlines the requirements relating to issuers' registers of regulated products under Subpart 4 of Part 4 of the FMC Act.

## NZX Limited (NZX)

### NZX consults on NZMDT penalty provisions

NZX is reviewing the penalty provisions available to the NZ Markets Disciplinary Tribunal (**Tribunal**) to:

- seek feedback on whether the Tribunal has been imposing appropriate penalties in relation to breaches of the NZX Participant Rules, the NZX Listing Rules, the NXT Market Rules, the NZX Derivatives Market Rules, the Clearing and Settlement Rules of New Zealand Clearing Limited and the Fonterra Shareholders' Market Rules;
- ensure that the Tribunal's rules and procedures allow for appropriate penalties to be imposed by the Tribunal, and guidance in relation to the application of penalties; and

- consider implementing an infringement notice regime to deal with minor breaches.

An initial discussion document was released this week and following consideration of feedback on this document the NZX plans to consult on any particular changes which may be developed.

The closing date for submissions on the initial discussion document is 29 May 2015. A copy of the document is available [here](#).

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## NZX timetable requirements for "same class" rights offers

The Financial Markets Conduct Act 2013 provides a simplified route for listed issuers to make rights offers of financial products of the same class as quoted financial products under clause 19 of Schedule 1 of the Act.

NZX has stated that if such an offer provides for rights to be traded, issuers must provide the information required by NZX operations at least five business days in advance of their offer, either through the release of the offer document or directly to NZX. This is to ensure NZX's operations can prepare the instrument and accompanying corporate actions.

## Updates for NZX/ASX dual listed issuers

### Changes to NZX requirement due to ASX's use of online forms for announcements

There is a requirement under the NZX Main Board and NZAX Listing Rules for issuers to release to market in New Zealand any information which has been released to any stock exchange other than NZX no later than the time at which it is sent to any other stock exchange. NZX have identified that this requirement will be difficult to comply with following ASX's move towards the use of online forms (which are not created until the time they are submitted to the ASX for release to market) for announcements of some corporate actions. In such cases, NZX have stated that issuers should seek to ensure that the information released over ASX is submitted to NZX for release as soon as practicable following release by ASX.

### ASX consults on the removal of regulatory costs for NZX-listed companies

ASX recently consulted on a proposal to facilitate the dual listing on ASX of companies listed on NZX's Main Board.

The proposal involves removing regulatory costs imposed under the ASX Listing Rules to the dual listing of NZX-listed companies by providing exemptions to initial and on-going Listing Rules under the current ASX Foreign Exempt Listings regime. The objective of the proposal is to facilitate New Zealand company access to Australian institutional investment through dual listing on ASX, and likewise to provide Australian investors with greater access to a wider range of well-regulated public companies.

The consultation paper is available [here](#).

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## COMPETITION AND CONSUMER LAW

### New developments

#### New Supplementary Order Paper tabled for Cartels Bill

A further Supplementary Order Paper ([SOP 068](#)) to the Commerce (Cartels and Other Matters) Amendment Bill was introduced on 30 March 2015 by the Minister of Commerce, Paul Goldsmith. The SOP provides important clarification as to the application of the proposed amendments during the Bill's transitional period.

The Bill amends the Commerce Act 1986, with the most significant changes being to expand the current price fixing prohibition to a broad prohibition for cartel conduct and criminalising such conduct. The Bill provides for a nine month transitional period following its enactment to allow businesses time to ensure their existing arrangements are compliant under the new regime and, if necessary, amend their arrangements before they attract liability under the new provisions. The SOP clarifies that the existing price fixing prohibition, and existing exemptions to the price fixing prohibition, will apply during the transitional period as if they had not been repealed.

This SOP will be considered, together with the other SOP's, at the committee of the whole House stage of the Bill.

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#### Commerce Commission parks Wilson investigation

The Commerce Commission has completed a near two-year long investigation into Wilson Parking New Zealand Limited's acquisition of rival Tournament Parking Limited's parking leases and management agreements. Ultimately, the Commission said the evidence did not support a conclusion that the acquisition resulted in a substantial lessening of competition in breach of the Commerce Act.

For Bell Gully commentary on this investigation [click here](#).

A public version of the report can be viewed [here](#).

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#### Major competition law reform recommended in Australia

A major review of Australian competition law has recommended fundamental changes to the key Australian legislation.

The highly anticipated final report of the Harper Review was released on 31 March 2015.

Among the more substantive recommendations, the Harper Review recommends:

- replacing the current misuse of market power test with a so-called "effects" test;
- simplifying Australia's overly complex cartel laws; and
- removing the current price signalling prohibition, and introducing the concept of concerted practices.

For further information on the recommendations and the possible ramifications for New Zealand's competition law refer to our earlier client update [here](#).

## In the courts

### Misuse of market power provisions back in the spotlight after ACCC's loss against Pfizer

The Federal Court of Australia has dismissed proceedings brought by the Australian Competition and Consumer Commission (**ACCC**) against Pfizer Australia Pty Ltd (**Pfizer**) for its conduct in the lead up to the expiry of its atorvastatin patent (a drug used to lower blood cholesterol). Specifically, the ACCC alleged Pfizer misused its market power and engaged in anticompetitive conduct in the way it supplied one of its drugs to pharmacists in contravention of the Competition and Consumer Act 2010.

The ACCC alleged that Pfizer offered significant discounts and rebates to pharmacists for Lipitor (Pfizer's branded atorvastatin product), on the condition that the pharmacy also buy a minimum 12 months' supply of Pfizer's cheaper generic version of the same drug. The fact that Pfizer was set to lose its patent protection for Lipitor in May 2012, meant that competitors would soon be allowed to produce and sell their own cheaper versions; putting Pfizer's revenues at risk. The ACCC alleged that in offering heavy discounts just before losing its patent over Lipitor, Pfizer had intended to deter or prevent competitors entering the market.

However, the ACCC claims were dismissed primarily due of a lack of evidence. Justice Geoffrey Flick found that while Pfizer had taken advantage of its market power by engaging in the alleged conduct, this power was no longer substantial at the time the offers to pharmacists were made. The ACCC also failed to establish that Pfizer had pursued its conduct for the proscribed purpose of deterring or preventing competitors from engaging in competitive conduct or for the purpose of substantially lessening competition. The ACCC has subsequently lodged an appeal against the Federal Court's judgment.

The Australian legislation is currently under review. Proposed amendments include the potential introduction of an "effects" test to the misuse of market power prohibition. However, such an amendment is unlikely to have altered the outcome in this particular case as the court found against the ACCC on the issue of market power. There have been calls in New Zealand for amendments to our equivalent provision, section 36 of the Commerce Act 1986, including a recommendation by the Productivity Commission for a review.

A copy of the Federal Court's decision is available [here](#).

## New Zealand Commerce Commission (NZCC)

### Speeches

The NZCC has issued the following speech:

#### **OECD Competition Working Party Meeting**

NZCC deputy chair Sue Begg presented on the NZCC's review of past merger clearance decisions to the OECD Competition Working Party Meeting in Paris.

[Click here for more](#)

## Media releases

The NZCC has issued the following media releases:

### Industry regulation and regulatory control

#### **NZCC releases draft analysis of Wellington Airport's revised pricing**

The NZCC has released its draft report indicating Wellington Airport is now targeting returns for the period from 1 June 2014 to 31 March 2019 that fall within an estimated range of acceptable returns.

[Click here for more](#)

#### **NZCC releases final decision on Transpower's Upper South Island reliability project amendment application**

The NZCC has released its final decision approving Transpower's application for an amendment to the Stage 1 Upper South Island reliability project.

[Click here for more](#)

### Telecommunications

#### **NZCC seeks cross submissions on new evidence**

The NZCC is seeking cross-submissions on substantive new evidence contained in a cross-submission from Chorus, as part of the UBA/UCLL final pricing principle consultation.

[Click here for more](#)

#### **NZCC to review regulated broadband non-price terms**

The NZCC has announced it will formally review the non-price terms of the Unbundled Bitstream Access Standard Terms Determination under the Telecommunications Act.

[Click here for more](#)

### Mergers and acquisitions

#### **NZCC to consider office products merger**

The NZCC has received an application from Staples, Inc seeking clearance to acquire all of the shares in Office Depot, Inc. Staples and Office Depot are two USA-based companies that supply work place products in a number of countries, including New Zealand.

The NZCC has published a statement of preliminary issues relating to the application.

[Click here for more](#)

#### **NZCC issues draft determination on wool scouring assets application**

The NZCC has reached a preliminary view that it should allow Cavalier Wool Holdings to acquire 100 per cent of New Zealand Wool Services International's wool scouring business and assets.

[Click here for more](#)

#### **NZCC closes investigation into Wilson Parking's acquisition of Tournament**

The NZCC is taking no further action in its investigation into Wilson Parking New Zealand Limited's acquisition of rival Tournament Parking Limited's parking assets.

[Click here for more](#)

#### **Connor Healthcare appeals NZCC decision declining clearance**

Connor Healthcare Limited has filed an appeal in the High Court against the NZCC's decision declining clearance for it to acquire all the shares in Acurity Health Group Limited it did not already own.

[Click here for more](#)

## **Market behaviour**

### **NZCC reaches preliminary view to authorise restrictions on the marketing of infant formula**

The NZCC has reached a preliminary view that it should allow members of the Infant Nutrition Council to restrict their advertising and marketing of infant formula for children less than six months of age.

[Click here for more](#)

### **NZCC authorises INC Code restrictions on the marketing of infant formula**

The NZCC has authorised members of the Infant Nutrition Council to follow their Code of Practice that restricts advertising and marketing of infant formula for children less than six months of age.

[Click here for more](#)

### **Court of Appeal rejects MTF Sportzone credit fees appeal**

The Court of Appeal has dismissed Motor Trade Finance Limited and Sportzone Motorcycles Limited's appeal in the long-running credit fees case brought by the NZCC. The Court's ruling upheld earlier High Court judgments that backed the NZCC's approach to assessing whether credit fees charged by lenders are reasonable as required by the Credit Contracts and Consumer Finance Act.

[Click here for more](#)

## **Consumer issues**

### **NZCC has begun enforcing new unfair contract terms**

It is now unlawful to include an unfair term in a standard form consumer contract under the new unfair contract terms provisions of the Fair Trading Act which took effect on 17 March 2015.

The main hallmarks of these contracts are that the terms have been offered to the consumer on a 'take it or leave it' basis, and the contracts relate to goods and services that are usually for personal use.

[Click here for more](#)

### **NZCC uses new enforcement tools**

The NZCC has used the new enforcement tools granted as part of the Consumer Law Reform last year to issue infringement notices for the first time to motor vehicle dealers in Auckland and Christchurch. Infringement notices carry a fine of \$1,000 each and can be issued to businesses by the NZCC for breaches of the Fair Trading Act relating to the failing to disclose certain information to consumers.

[Click here for more](#)

### **NZCC targets 'opt out' pricing**

The NZCC is calling on New Zealand businesses to scrap the use of 'opt out' pricing. Opt out pricing is where an additional product is automatically added to a sale during an online sales process and the supplier requires the customer to actively 'opt out' of buying the additional good or service during the process.

[Click here for more](#)

### **NZCC encourages businesses to ensure customers are not misled by surcharges**

Many businesses apply surcharges to recover additional costs such as higher staff wages on public holidays. Businesses must ensure any surcharge is clearly disclosed and the reasons for the surcharge are accurately described or they may risk breaching the Fair Trading Act.

[Click here for more](#)

## Australian Competition and Consumer Commission (ACCC)

### Selected ACCC media releases

The ACCC has issued the following selected media releases:

#### Industry regulation and regulatory control

##### **ACCC proposes to deny Qantas/China Eastern coordination agreement**

In a draft decision, the ACCC is proposing to deny authorisation for Qantas and China Eastern to coordinate their operations between Australia and China under a proposed Joint Coordination Agreement.

[Click here for more](#)

#### Mergers and acquisitions

##### **ACCC will not oppose Macquarie, Fairfax radio merger**

The ACCC will not oppose Macquarie Radio Network Limited's (MRN) proposed acquisition of the radio assets of Fairfax Media Limited, or Fairfax's proposed acquisition of 54.5 per cent of MRN. The ACCC determined that the combined Macquarie/Fairfax radio business would continue to face strong competition from other commercial radio stations.

[Click here for more](#)

#### Market behaviour

##### **ACCC targets alleged false and misleading packaging claims**

The ACCC has instituted proceedings in the Federal Court of Australia alleging that representations on the packaging of certain pain relief products are false or misleading.

[Click here for more](#)

##### **Federal court finds Safety Compliance misled small businesses into purchasing safety products**

The Federal Court has declared that Safety Compliance Pty Ltd contravened the Australian Consumer Law and the Trade Practices Act 1974 (now called the Competition and Consumer Act 2010) by making false or misleading representations and engaging in misleading or deceptive conduct directed towards small businesses in connection with the supply of safety wall charts and first aid kits, in proceedings brought by the ACCC.

[Click here for more](#)

#### Telecommunications

##### **Consumers continue to benefit from falling prices for telecommunications services**

The ACCC's annual telecommunications reports for 2013-14 show that the prices paid by consumers for telecommunications services fell by 2.7 per cent in real terms in 2013-14.

[Click here for more](#)

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### Contact us

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