

EDITORIAL

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Competition law and policy is a dynamic area of law. This is evidenced by the continuing amendments to the legislation and the intense debates surrounding the appropriate structure of the law. This Forum is not intended to cover all the competition provisions in the *Trade Practices Act 1974* (Cth) ('*TPA*'). Rather, it focuses on particular aspects where there has been reform, or proposed reform, and to evaluate the form of these amendments and their operation in practice. As such, the Forum includes contributions from both academics and legal practitioners in the field of competition law.

Some of the articles in the Forum consider the Trade Practices Amendment (Cartel Conduct and Other Measures) Bill 2008 (Cth) introduced into Parliament but yet to be passed. This Bill significantly amends the *TPA* by introducing criminal sanctions alongside civil penalties for cartel conduct. As the articles show, the legislation with respect to certain kinds of conduct remains flawed. Fault elements for the proposed criminal offences are inadequate. Furthermore, certain kinds of conduct are exposed to per se liability, which as the articles argue, are unjustified. Underlying the analysis is the need for conduct to actually be anti-competitive before it is prohibited. Other articles in the Forum explore the updated *Merger Guidelines 2008* released by the Australian Competition and Consumer Commission and the operation of the Australian merger control regime. The Forum also addresses the grocery and fuel price inquiries and the policy recommendations made, with some observations on the prices surveillance powers.

I would like to thank the authors for their contributions. They have generously provided their expertise and experience. Their unique perspectives help to inform readers on the scope for, and effects of, reform of the competition provisions.

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