

2018 COMPETITION LAW CONFERENCE

SHERATON ON THE PARK HOTEL, SYDNEY  
 SATURDAY, 5 MAY 2018  
 HYDE PARK ROOM  
 PROGRAMME

8.45 am	Registration	
9.15 am	Welcome and Opening Remarks	
	<b>Convenor</b>	<b>Christopher Hodgekiss SC</b> , Barrister Selborne Chambers, NSW Bar, and Adjunct Professor of Law, University of Sydney
9.20 am	<b>Keynote Session</b>	<i>CONCERTED PRACTICES; A CONTRAVENTION WITHOUT A DEFINITION</i>
9.25 am	<b>Speaker</b>	<b>The Honourable Justice Lindsay Foster</b> Federal Court of Australia
10.15 am	Discussion	
10.30 am	Morning Tea	
11.00 am	<b>Session 2</b>	<i>AUSTRALIAN CARTEL LAW: BIOPSIES</i>
11.05 am	<b>Speaker</b>	<b>Brent Fisse</b> Special Counsel, Resolve Litigation Lawyers; Adjunct Professor of Law, University of Sydney
11.50 am	<b>Commentator</b>	TBC
12.05 pm	Discussion	
12.20 pm	LUNCH (Feast Restaurant)	
1.30 pm	<b>Session 3</b>	<i>DIGITAL PLATFORMS - EVOLUTION IN THE REVOLUTION</i>
1.35 pm	<b>Speaker</b>	<b>Sharon Henrick</b> Partner, King & Wood Mallesons
2.20 pm	<b>Commentator</b>	<b>Dr Martyn Taylor</b> Partner, Norton Rose Fulbright
2.35 pm	Discussion	
2.50 pm	Afternoon Tea	

3.15 pm	Session 4	<i>MERGER AUTHORISATION PROCESSES IN AUSTRALIA IN LIGHT OF THE TABCORP DECISION</i>
3.15 pm	Speaker	<b>Dave Poddar</b> Partner, Clifford Chance
4.00 pm	Commentator	TBC
4.15 pm	Discussion	
4.30 pm	Close of Conference	
4.30 pm – 5.30 pm	Refreshments and Canapés (Hyde Park Room Lobby)	

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SESSION DETAILS**

**Session 1 THE HON. JUSTICE LINDSAY FOSTER, Federal Court of Australia*****CONCERTED PRACTICES; A CONTRAVENTION WITHOUT A DEFINITION***

The following issues will be discussed in his Honour's presentation:

- What was the rationale for the introduction of s 45(1)(c) of the CCA?
- What are the elements of the contravention? Is price-signalling caught?
- Will the Courts interpret the provision with notions of "meeting of the minds" and "consensus" as a backdrop or will "responsive" conduct be construed as concerted conduct?
- How influential will the overseas experience be?
- Will some non-horizontal conduct be captured?
- Can a corporation attempt to contravene the provision by unilateral conduct?

**Session 2 BRENT FISSE, Special Counsel, Resolve Litigation Lawyers; Adjunct Professor of Law, University of Sydney*****AUSTRALIAN CARTEL LAW: BIOPSIES***

Brent's presentation will be an exposé of some vital and important issues:

- "cartel provision"
- counterfactual analysis - price fixing
- CAU
- joint venture exemptions
- supply agreements between competitors
- authorisation of cartel conduct
- concerted practices
- individual liability
- corporate liability
- remedies

**Session 3 SHARON HENRICK, Partner, King & Wood Malleons*****DIGITAL PLATFORMS - EVOLUTION IN THE REVOLUTION***

Sharon will discuss recent decisions in the northern hemisphere about digital platforms and examine their impact on certain competition law concepts, including:

- market definition
- market power
- concerted practices
- what the cases might mean for Australia

Session 4 DAVE PODDAR, Partner, Clifford Chance

**MERGER AUTHORISATION PROCESSES IN AUSTRALIA IN LIGHT OF THE  
TABCORP DECISION**

The issues to be considered by Dave in this session include:

- The full Federal Court decision (*ACCC v Australian Competition Tribunal* [2017] FCAFC 150) and the Australian Competition Tribunal determinations in Tabcorp make clear the broad nature of the public benefits and detriments to be considered in the authorisation test under section 95AT of the Competition and Consumer Act 2010 (Cth) (CCA). Benefits and detriments have been found to extend beyond just those relating to competition, meaning this is a broader test than the primary test that applies under section 50 of the CCA.
- How should the ACCC, which is, following the implementation of the Harper Reforms, the first instance decision maker, assess this broader test? Is it best equipped to consider broader issues than those pristinely related to competition?
- Would the Tribunal, reconstituted to include a broader range of members, be better placed to consider the broader public benefits and detriments associated with mergers, particular where significant social issues are involved such as, for example, gambling (as was the case for Tabcorp), media diversity (which is likely to be an issue in the short term) or employment and trade?

**Competition Law Conference**  
**5 May 2018**  
**Sheraton on the Park Hotel**  
**161 Elizabeth Street, Sydney NSW 2000**

**Registration Form and Tax Invoice**  
**ABN: 25 102 381 674**

**REGISTRANT DETAILS**

Title First Name  
Last Name  
Organisation Position  
Mailing Address  
City State Postcode  
Country  
E-mail Phone #

\* This form can be opened and the edit fields completed using Adobe Reader

**REGISTRATION FEES: AUD\$960 per person** (inclusive of GST)

This fee includes payment for all Conference materials, lunch, refreshments and post-conference canapes and beverages. If this conference is relevant to your professional development, you may claim one CLE/CPD point for each hour of attendance, excluding lunch and refreshment breaks.

Please advise if you have any dietary restrictions:.....

**PAYMENT: closing date for registrations is 29 March 2018**

Payment can be made by either:

- (1) **CHEQUE**, made payable to the **COMPETITION LAW CONFERENCE**  
or  
(2) **EFTPOS** - see account details below

Please note that, unfortunately, payment by credit card is **NOT available**

The completed Registration Form may be returned by email or by mail. However, a place will not be reserved without receipt of the registration fee. This Form can be used as a Tax Invoice once payment is made and a receipt issued.

Please send your completed Registration Form by email to: [chrishodgekiss@bigpond.com](mailto:chrishodgekiss@bigpond.com), or mail to: Christopher C Hodgekiss SC, Fifth Floor, Selborne Chambers, 174 Phillip Street, Sydney NSW 2000

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**Privacy Statement:** To protect your privacy, the information provided on this form will be used only for the purposes of processing your registration at this conference. It will not be disclosed to any third party.

**Programme Changes:** The organisers reserve the right to vary the programme and context if occasion obliges us to do so.

**Cancellation Policy:** Written cancellation will be accepted up to two weeks before the conference and the fees will be refunded less a \$100.00 administrative charge. Withdrawal after this time or registered delegates who do not attend the conference will not be entitled to a refund. However, substitutions are allowed at any time.

# Competition Law Conference 5 May 2018

## ACCOUNT DETAILS

BANK: NATIONAL AUSTRALIA BANK  
BRANCH: ST IVES, NSW 2075  
SWIFT CODE: NATAAU3303M  
BRANCH NUMBER: 082-445  
ACCOUNT NAME: COMPETITION LAW CONFERENCE  
ACCOUNT NUMBER: 55-509-2535  
REGISTRATION FEE: AUD\$960.00 pp

It would be appreciated if you could ensure that **your name and the name of the organisation** are quoted with the Eftpos transfer details to ensure easy identification.

### Bank Charges for payments from overseas

Please be aware when completing the International Funds Transfer form, the boxes which indicate where the bank charges are to be debited need to be ticked to indicate that **ALL CHARGES are to be debited to the Payee's bank account.** (i.e. bank charges of both the sending bank and the receiving bank).

Unless this is done, the full registration fee is not credited to the conference account and a second payment will be required to make up the shortfall which will, unfortunately, incur additional costs for your firm

## ACCOMMODATION AT THE SHERATON ON THE PARK HOTEL

Website: [Sheraton on the Park Hotel, Sydney](#)

Those delegates wishing to stay at the Sheraton on the Park Hotel should contact the hotel's in-house reservations team directly on +61 2 9286 6462 and quote "**Competition Law Conference**" when making the booking in order to be entitled to a 10% discount off the Best Available Flexible Rate

For those who do not wish to stay at the Sheraton Hotel, there are many websites which offer information about hotel accommodation in Sydney, including [Wotif](#); [Expedia](#); and [Booking.com](#)

**For further information please contact: [chrishodgekiss@bigpond.com](mailto:chrishodgekiss@bigpond.com)**

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