

Nailed! Marque Lawyers' semi-regular wrap up of who's been sprung by the ACCC and how much it cost



DIY reviews not a great idea

Service Seeking learned the hard way that the first rule for customer reviews is that they must be written by customers.

A 'Fast Feedback' feature allowed a business listing on the online platform to write its own review, give itself a star rating, and then email that to its customer. If the customer didn't respond in three days – ta da – the review was published. Minor issue with that. At least 80% of the Fast Feedback reviews weren't actually from customers. Turns out the ACCC is not a huge fan of the idea, and is prosecuting for misleading conduct.

'Gun jumping' misfire for Cryosite

Illegal '[gun jumping](#)' is less about the wild west and more about competitors coordinating behaviour prior to completion of an M&A deal. Cryosite was the ACCC's first gun-jumping prosecution. Cryosite admitted guilt and now the penalty decision is in: \$1.05M.

Factors in the magical assessment cauldron included the facts that Cryosite didn't try to hide the conduct, its lawyers didn't red flag any cartel issues to it, Cryosite's ability to pay the fine, and the business's cooperation with the ACCC.

You have to learn to ACL, before you can fly

The airlines are in hot water over the Australian Consumer Law (ACL). Again. This time it's over refund rights when there are flight delays or cancellations.

Jetstar, Qantas, Tiger and Virgin have all given undertakings to be more law-abiding. Mainly by explaining clearly customers' rights under the ACL if a plane is substantially delayed or cancelled. Jetstar's also looking at a \$1.95M penalty. No to blanket refund refusals. No to customers paying 'admin fees' to get a refund. Yes to clear statements of rights under the



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consumer guarantees. It's not rocket science. Or even aviation engineering.

iSelect comparison favourites

The ACCC is prosecuting iSelect because its energy plan comparison service wasn't objectively objective. Apparently iSelect didn't actually compare all available plans or necessarily recommend the most competitive plans, contrary to its website's claims. Retailers were able to pay for preferred treatment and iSelect didn't explain this to consumers.

Now, it is not unusual for a free comparison service to have commercial relationships with retailers. But if you are going to do this – disclose, disclose, disclose. Always explain what is being compared and how, otherwise you're in dangerous territory.

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