ACCC response to Covid-19

Source: https://www.accc.gov.au/media-release/accc-response-to-covid-19-pandemic

Date: 27 March 2020

Abstract:

On 27 March 2020, the ACCC released a statement in relation to its response to Covid-19. It announced that it has changed the focus of its activities given the disruption facing businesses, especially small business and the potential impact on consumers and the economy.

In summary:

1. **ACCC to play a supportive role in helping the economy recover:** While the ACCC's Enforcement priorities are still in place (a summary of which can be found here), the ACCC will focus on areas of most priority and relevance to competition and consumers as a result of Covid-19.

2. **Enhanced effort to address exploitative business behaviour:** The ACCC will strengthen efforts to address behaviour by businesses which seek to exploit the crisis either through unduly enhancing commercial gain or by harming consumers.

3. **Consumer guarantees (such as refunds) are critical:** The ACCC will update its website regularly with advice in relation to these issues. Information can be found here.

4. **ACCC Covid-19 Taskforce established:** The Covid-19 Taskforce will educate businesses about obligations in relation to cancellations, refunds and suspension of services.

5. **ACCC will raise awareness of Covid-19 Scams:** The ACCC will continue to monitor for scammers who seek to prey upon vulnerable parts of the community.

6. **Price gouging will be closely monitored:** While 'price gouging' is generally not illegal, the ACCC will prioritise its efforts on potential misleading and deceptive conduct which relates to prices, including claims about reasons for any price increases. Claims in relation to price increases may breach either the misleading and deceptive conduct prohibition and/or unconscionable conduct provisions contained in the Australian Consumer Law. For more information on consumer law issues, see here.

7. **Affordability issues remain under the microscope:** The ACCC will continue to focus on sectors such as energy, communications and petrol, which provide essential services to the Australian population.

8. **Quick review of potential authorisations for coordination between competitors:** The ACCC has committed to continuing to actively engage with governments and businesses about potential authorisations that support coordination between competitors that is ordinarily prohibited (under cartel provisions) but which is necessary and in the public interest at this time. The ACCC has granted interim authorisation to several industries including banking, groceries, airlines and healthcare. More information can be found here and more generally here.

9. **Enforcement activities will consider regulatory burden already placed on businesses:** The ACCC has indicated that it will try to minimise regulatory burden and the use of compulsory examinations during this time.

10. **Merger timeframes may need to be extended:** The ACCC has flagged that it may need to extend merger reviews and applications beyond the allocated statutory timeframes given the challenges posed by Covid-19. The ACCC has published detailed guidance on this, which can be found here. The guidance states that the ACCC expects increased merger activity in future, especially in relation to the uncertain financial health of some businesses**.** All mergers will be reviewed on a case-by-case basis and consideration will be given to the long-term impact on competition from structural change.

11. **Exemptions for infrastructure regulation will be considered:** The ACCC has foreshadowed that it will consider exemptions if infrastructure regulation is impracticable as a result of Covid-19, including in relation to fuel, broadband and energy markets.

12. **The Consumer Data Right** will continue to progress in consultation with other Departments and any need to provide flexibility.

13. **Product Safety is an enduring priority** and the ACCC reminded Australians in its statement to check their vehicles given the recalls with certain airbags. More information can be found here.