



Australian
Competition &
Consumer
Commission

Reflections Of A Regulator

The silly things that businesses should never, ever do ...

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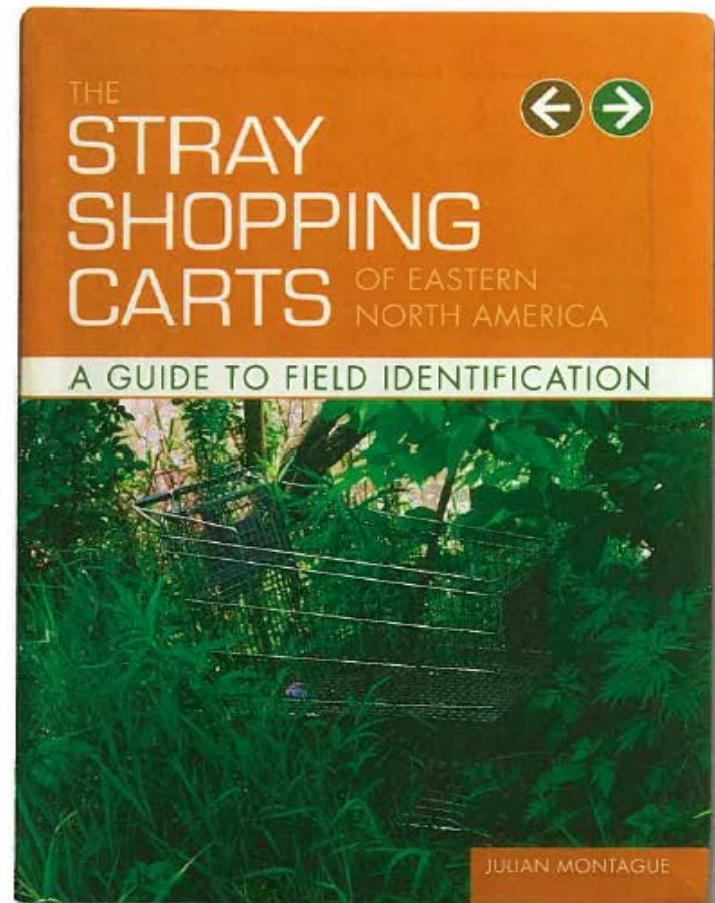
Friday 20th April 2018

THE STRAY SHOPPING CARTS
OF EASTERN NORTH AMERICA
A Guide to Field Identification

Julian Montague

Abrams Image, 2006

How to identify abandoned shopping trolleys.



Schaper's Unofficial Top Traps



1. Advertising: beware of your fine print



2. Blaming price rises on someone else



3. Rigging online reviews



4. Silencing your customers



5. Running a cartel



6. Signing up to a scam



7. Selling unsafe goods



The ACCC: What We Do



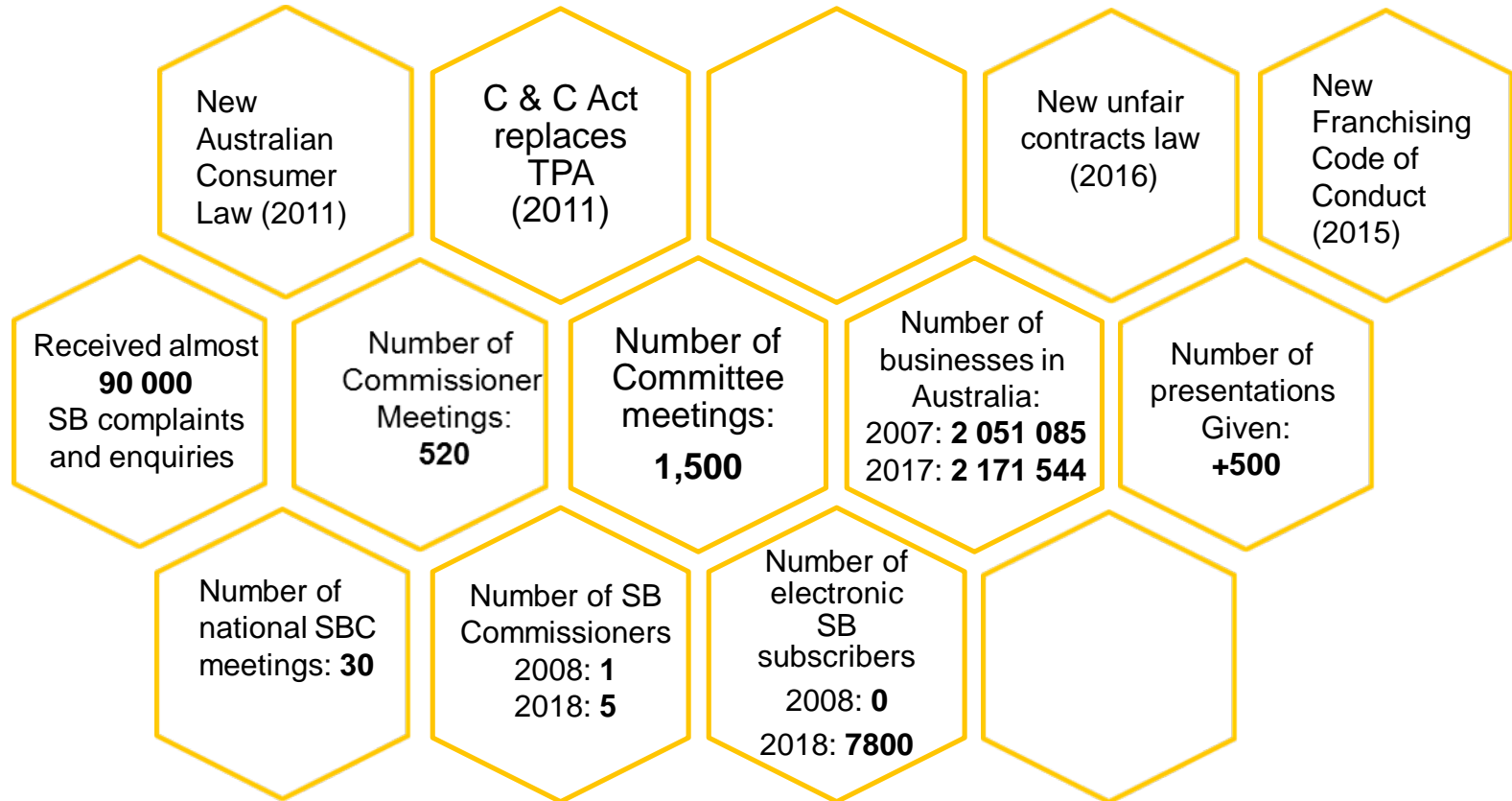
- We're a **national regulator** overseeing laws on consumer protection, fair competition, product safety, infrastructure access
- Administer the **Competition & Consumer Act 2010** (previously the *Trade Practices Act 1974*)
- The ACCC also **regulates specific industries** (energy, telecommunications), industry codes (franchising, horticulture) and price monitoring (airports, postage, stevedoring).
- We are an **independent statutory agency** within the Treasury portfolio
- We have seven **Commissioners** (statutory appointments), 800 staff and offices in each state and territory
- An **enforcement agency** - **the ACCC does not set policy**
- Most enforcement action decided through the courts (30+ cases a year)
- **Does not provide private rulings:** firms need to get their own independent advice

Legal Framework

- *Competition & Consumer Act 2010*
- Includes the Australian Consumer Law
- Laws apply across the country
- Apply to all activities “in trade or commerce”
– legal structure is usually irrelevant
- Covers both goods and services
- Activities of government often exempt
- ACCC cannot impose penalties: court-based litigation (but can issue infringement notices) ...
- But can seek **banning orders and fines for directors and company officers.**



A Decade In Review: Changes Between 2008-2018



A Decade Of Small Business Ministers



Competition And Consumer Issues In WA

ACCC Petrol Monitoring Report identifies higher prices in regional WA

ACCC refers about 200 matters to the WA Small Business Commissioner each year

225,000 businesses operating in WA in 2016



32,000 entries – 28,000 exits

Source: ABS cat no 8165.0.

Nov 2017: Fastway Couriers (Perth) pay \$9,000 penalty for breaches of the Franchising Code

Sept 2015: ACCC grants exemption from certain provisions of the Wheat Code for Bunbury bulk wheat port terminal

Sept 2016: ACCC approves Seven West's acquisition of The Sunday Times and pethnow.com.au from News Corporation

July 2017: Snowdale pays \$750,000 penalties for making false or misleading representations that its eggs were 'free range'

Our Work Covers The Glamorous... And The Not So Glamorous



Not universally appreciated ...



At Times We Struggle With Technology... But We've Improved

“Oh... so you'd like to subscribe to our email information network...?”



Subscription form

ACCC Small Business Information Network

The ACCC Small Business Information Network is a free information service keeping subscribers informed of recent trade practices updates which relate to the small business sector.

SUBSCRIBER DETAILS:

Name

Organisation/business

Position

Postal address

Telephone number Facsimile number

Email

Please Note: All correspondence will be sent via email.

Please tick the appropriate box to describe the nature of your business/role:

retailer legal adviser
 wholesaler/distributor government agency
 business association other, please specify _____
 business adviser

Please indicate the industry you operate in (if applicable)

Privacy

The information supplied by you on this form will not be released or used for any purpose other than to notify you of ACCC franchising information network updates.

Send your completed form to:

Australian Competition and Consumer Commission
PO Box 520, Melbourne Vic 3001
or fax to (03) 9663 3699
or email smallbusinessinfo@acc.gov.au
For help or more information, call the ACCC Infocentre on 1300 302 502.

ACCC AUSTRALIAN COMPETITION & CONSUMER COMMISSION

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Small Business Information Network

Do you run a small business or advise small businesses? Keep up with all the latest news and events by joining the ACCC's Small Business Information Network (SBIN).

SBIN subscribers receive emails about new or updated resources, enforcement action, changes to Australia's competition and consumer laws, events, surveys and scams relevant to the small business sector.

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Email Address

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State

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AUDIENCE Small business

2017: Visit website,
type your details and
click 'subscribe'

2012: “No problems -
simply complete this
paper-based form and
fax to the ACCC – we will
then manually process
your request and you'll
be subscribed within two
weeks”

Some People Appreciate Our Work... Others Don't

The @accgovau are the most **useless**, toothless, totally irrelevant govt. agency going around. And that is a massive pool to choose from.



Are you KIDDING me? We lived in FNQ for past 12 months and it did not move from \$1.39 for even one day! Petrol stations said if they made it lower they would lose to opposition ffs. The @accgovau were **useless** as tits on a bull when they SAY they investigated.



the @accgovau is a sleeping, three legged, **toothless**, castrated, one eyed watchdog!



I am actually suggesting that the ACCC is, in relation to telcos, as useless as a **chocolate teapot**.



ACCC 
@accgovau



1. Misleading Customers ... The Devil Is Still In The Detail (or the beer, the bread, the bacon...)



Coles bread



Byron Bay Pale Lager



Free-range eggs



Honey



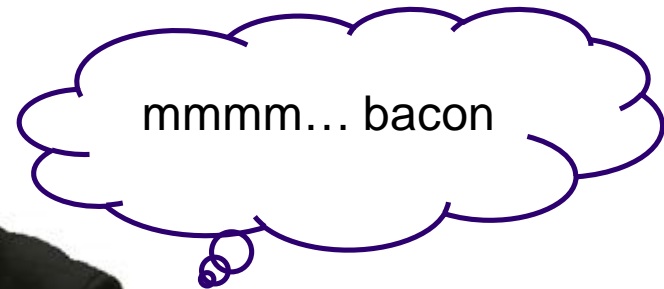
Nurofen



iiNet



Bacon



What's Wrong With This...?

Independent Liquor Group



What's Wrong With This...?

Conroys Pty Ltd

Breakfast Bacon

1kg NET

Conroy's

Manufactured by Conroy's Smallgoods Pty. Ltd. 32 Seventh St.
Bowden, South Australia 5007 Telephone: (08) 8346 5821

PRODUCT OF AUSTRALIA

NUTRITION INFORMATION
Serving per PACK approx 15 (suggested serving size 10g)

	AVERAGE QUANTITY PER SERVING	AVERAGE QUANTITY PER 100g
Energy	864 kJ	714 kJ
Protein	5.1 g	14.0 g
Fat Total	8.0 g	12.3 g
Saturated	3.1 g	4.8 g
Carbohydrates TOTAL	1.3 g	2.0 g
Sugar	1.3 g	2.0 g
Sodium	686 mg	1046 mg

INGREDIENTS: PORK, WATER, SALT, SUCROSE, DEXTROSE, MINERAL SALT (450, 451, 452), CARRAGEENAN (407), ANTIOXIDANT (316), SODIUM NITRITE (250), NATURAL SMOKE.

COOK TO INTERNAL TEMPERATURE OF 75°C BEFORE CONSUMPTION

STORE AT 3°C

9 310443 003683

What's Wrong With This...?

Maggie Beer Products Pty Ltd



What's Wrong With This...?

'Organic' Water



2. Don't Blame Your Price Rises On Someone Else

On 8 June 2012, the managing director of **Brumby's Bakeries Pty Ltd** distributed a newsletter to approximately 250 Brumby's franchisees which contained the following statement:

"... We are doing an RRP review at present which is projected to be in line with CPI, but take an opportunity to make some moves in June and July, let the carbon tax take the blame ..."



3. Don't Cut, Paste, Or Play Clever Online

What do these four companies have in common?



Electrodry



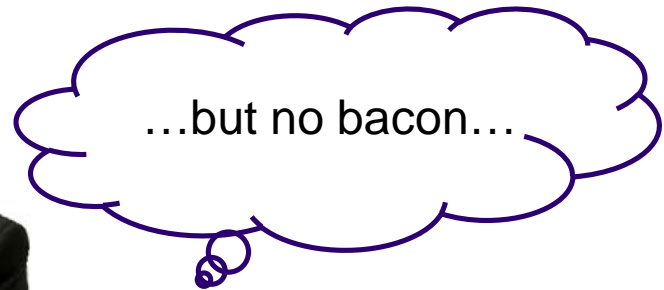
Citymove



Meriton



Aveling Homes



Rigging Online Reviews

It's a breach of the Australian Consumer Law to mislead or deceive customers or other businesses.

That includes “**rigged**” review 



2015 – An Electrodry franchisee paid penalties of \$215 000 for publishing fake online reviews



2015 – Citymove paid penalties of \$30 600 concerning false testimonials about its furniture removal services



2017 – Meriton took steps to prevent guests it suspected would give an unfavourable review from receiving TripAdvisor's 'Review Express' email



2015 – Court ordered \$380 000 penalties against Aveling Homes for misleading the public in connection with two online review sites

4. Don't Try To Silence Your Customers

In December 2017, WA-based building company **101 Residential** (part of the Scott Park Group) amended its standard home building contract, following ACCC concerns.

ACCC Compliance

101

Between October 2014 – August 2017, their building contract contained 'non-disparagement clauses' that allowed it to:

- prohibit customers from publishing any unapproved information about the company, including online reviews
- remove any published information
- suspend work on the customer's contract site
- ultimately terminate the customer's building contract.

Online reviews help people make **informed purchasing decisions** – so consumers should be free to have their say openly



5. Keep Your Cartels Quiet ...

In March 2015, the ACCC forgave Forrest's controversial iron ore **'cartel'** call.

"All of us should cap our production now and we'll find the iron ore price will go straight back up to \$70, \$80, \$90 and the tax revenues which that will generate will build more schools, more hospitals, more roads, more of everything which Australia needs — universities etc."

!?!?



The ACCC took into account Fortescue's position that Mr Forrest's comments were made **'off-the-cuff'** in response to audience questions, were hypothetical and intended to encourage a policy debate about the long-term future of the iron ore industry

... always get a good lawyer ...

In 2002, the Tasmanian Atlantic salmon industry was in financial difficulty - supply was outstripping demand.

The **Tasmanian Atlantic Salmon Growers Association** decided that if **all members** culled stocks by around 10%, this would meet demand and avoid further price falls.



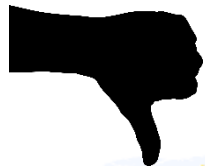
It sought legal advice but did not correctly brief its lawyers.

Growers discussed, approved and circulated proposed plan.

The ACCC investigated; the cull stopped. Due to state of the industry, fact that legal advice had been sought, and cooperation shown, the ACCC did not pursue penalties. Instead obtained court orders for an industry-wide legal compliance training program and stop on future culls.



... be careful what you say in your emails ...

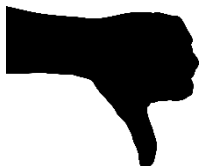


- “My business partner has told me not to refer work after noticing your prices are undercutting us...”



- “It’s a pretty much unsaid rule that we keep to the same pricing.”

“We don’t need to be competing against each others, we need to team up”



“Ideally if we were all at the same pricing, we would all make more money.”

... don't use your accountant to arrange your cartel ...

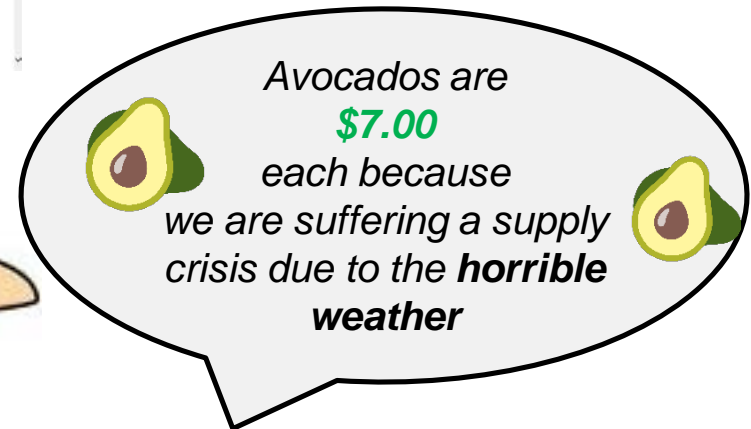
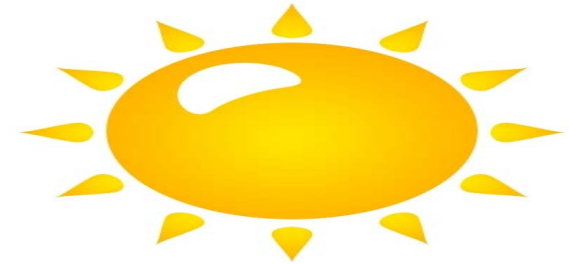
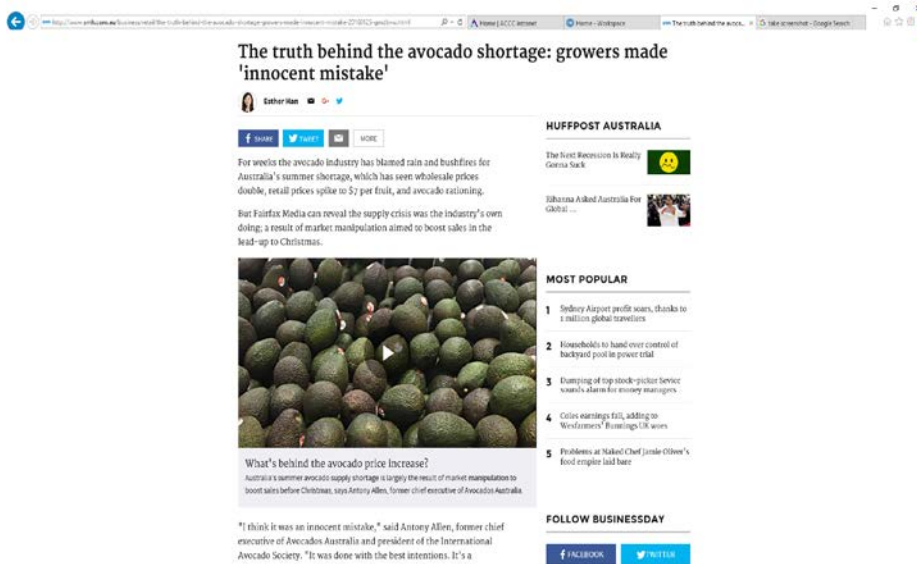
Queensland pre-mixed concrete cartel

The Pioneer, Boral and CSR cartel involved bid rigging, price fixing and market sharing in the pre-mixed concrete market in south-east Queensland from 1989 until 1994. The participants had more than 50 regular meetings and phone conversations. In addition to fixing prices, they agreed on market shares and not to compete on specified major projects. The participants even engaged an accountant to monitor market shares so they could enforce compliance with the agreement. The arrangement led to considerable overcharging on major construction jobs, including federal, state and local government projects.

Penalties of \$6.6 million were imposed on each company. Penalties were also imposed on six executives, the maximum being \$100 000. The case demonstrated a blatant disregard for the law, as each of the corporate groups had previously been found to have engaged in similar conduct.



... and avoid avocado arrangements



GRAPHIC VIDEO: MEXICAN CARTEL AT BORDER PREPS TO INCINERATE VICTIMS' HACKED BODIES, PLAYS SOCCER WITH HEAD

SHARE | 100% | 100% | 100% | 100%



By [Name] | [Date] | [Location]

MATAMOROS, Tamaulipas
— A leaked video obtained by the Breitbart Texas shows a crew of Gulf Cartel gunmen preparing to incinerate dozens of murdered victims. They are also seen playing soccer with a human head.

SIGN UP FOR OUR NEWSLETTER



... especially with a Mexican connection

flown in from 5000 miles away?"

Avocados are also a huge drain on water resources in arid countries - it takes approximately a bathtub of water to produce just one fruit.

Most disturbing for Ryan, though, is the fact that gangland violence has infiltrated production of avocados: "I find it highly troublesome that in Mexico, cartels are taking over the farms with fear and killings. Avocados are something that are becoming less and less sustainable, which is why we won't be serving them at Wildflower."

It will probably come as something of a shock to avid avo-fans that what's seen as a healthy, clean-eating choice in Britain is causing misery on the other side of the world. There's currently a shortfall in the massive demand for the fruit, known as "green gold" in South America, but more recently dubbed "blood avocados". In the state of Michoacán, which produces 92 per cent of Mexico's avocados, brutal cartels have inflicted torture, kidnappings and murder on producers as they seized control of the industry. Farmers are being harassed and extorted for their crops, as the cartels have moved from trafficking heroin and cocaine to avocados.

Of course, Ryan is not calling for a nationwide boycott of avocados - especially as this would only punish Mexican farmers further. He points out that you still can walk into pretty much any cafe in any hip city in Britain, and find avo toast on the menu, should you so wish. Wildflower leaving them off the menu is unlikely to make a dent in global production.

But the ever-expanding taste for avocados is putting pressure on producers to



meet the shortfall in demand, similar to quinoa in 2013, when prices for the newly fashionable grain soared, and priced out Bolivians on the poverty line.

Ryan's stand against the avocado is also intended to make us think about that other buzzword for our time sustainability. Shouldn't we all be expanding our palate to include seasonal - and ethical - local fruit and veggies instead?

For starters, the chef is focusing on swede. Maligned as watery orange mulch or stew fodder, he thinks it's time to give the root veg a new look, which is why he is serving up a swede "fondue". Still warm when it hits the table, it's a savoury yet sweet dip with a great umami hit, and feels buttery and creamy despite being dairy-free. It's also amazing slathered on top of some of the bread rolls made in-house that morning.

Mexico's brutal cartels have inflicted torture, kidnappings and murder on producers as they seized control of the industry.

Above: workers in an avocado orchard in the Mexican state of Michoacán. Right, avocado farm in the mountains of Colombia.
PHOTOS: ALAMY

"Swedes are a great thing and in season now but they're massively unloved," says Ryan. "The fondue is essentially using them as a vessel for other ingredients - in a way like the avocado is. Avocados actually taste of very little, and it's only when you add salt and acid, like lemon or lime, and chilli to it that it becomes tasty. What our fondue dish is doing is providing a fatty, more-fish treat, as that's all that an avocado is, just loads of really nice fat. The swede fondue has got that

same unctuous vibe."

Over the next few months he will continue to champion an allotment's worth of unappreciated fruit and veg for diners to revisit. Ryan says to expect things like celeriac remoulade - made with a vegan mayo - Jerusalem artichokes and January king cabbage on the menu, before wild garlic and asparagus season kicks off in March and April. And there's no chance of a turf war over asparagus. Well, jokes Ryan, "No unless you count Wye Valley farmers with their pitchforks."

Whether or not we still tuck into an avocado-laden brunch, thinking about where our food comes from and the impact it has on the environment seems like a good resolution for 2018. Now, to just make swede Instagram-friendly... 
NEWSTATESMAN



The best type of cartel



6. Check Your Bills Before You Pay Them

You receive a really professional looking letter claiming you owe money for your domain name. It's so similar to the one you actually own ... but there are missing suffixes ('.net' or '.com.au')



Some
advice

MR ALWAZ WHYNS
PO BOX 7898
SYDNEY NSW 2300

DOMAIN NAME INVOICE

ORGANISATION ALWAZ WHYNS LAWYERS

DOMAIN **WWW.ALWAZSWHYNS.COM**

PRICE \$200.00 INC GST




INCLUDES 2 YEARS REGISTRATION, FREE EMAIL AND WEB FC

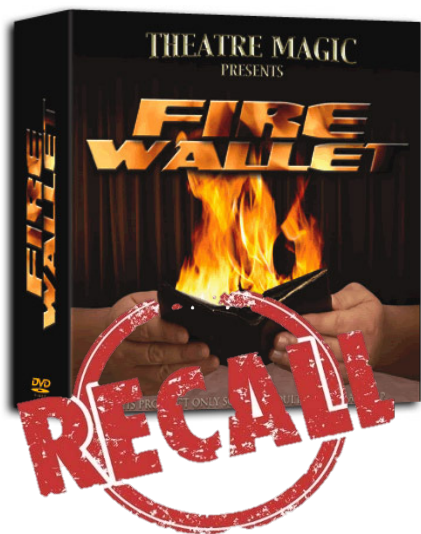
SPECIAL OFFER * PAYMENTS RECEIVED WITHIN 2 WEEKS GET /

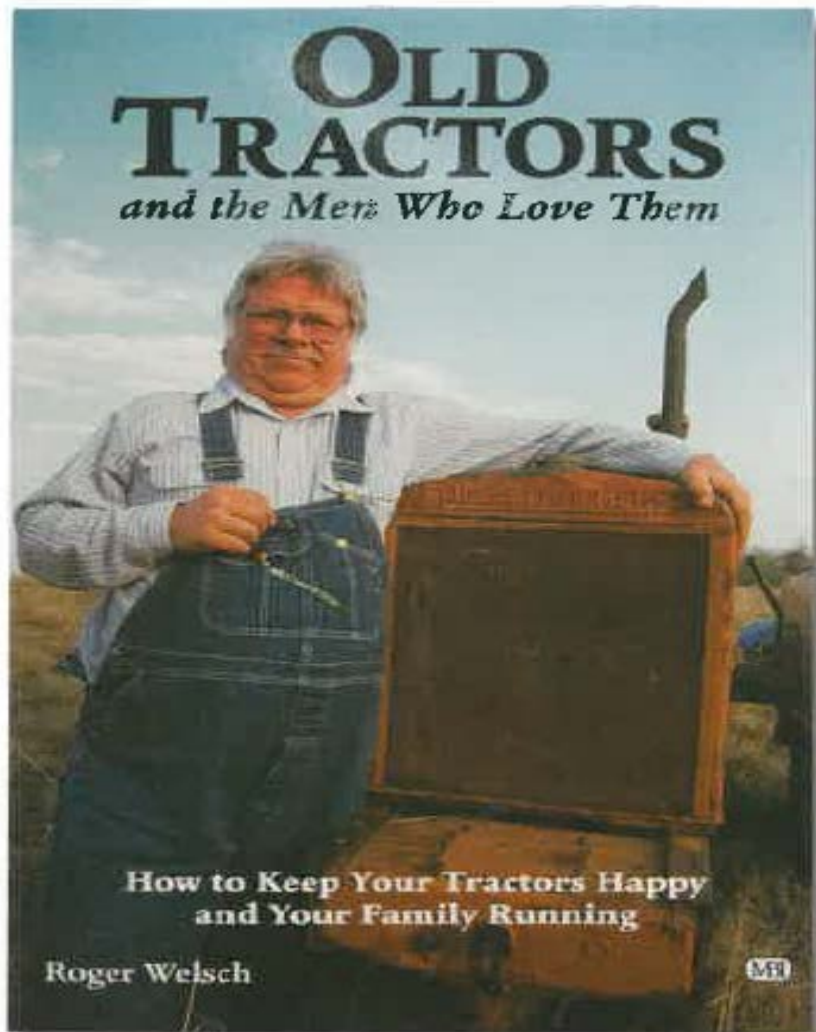
**CHECK THE BILL
CAPEFULLY BEFORE
PAYING.**

**DOUBLE CHECK
THE DOMAIN NAME
IS YOURS!**

7. Try Not To Sell Dangerous Things

-  It's **illegal** to sell unsafe products, or ones that don't comply with the relevant safety standards.
-  If you sell something that injures a person, you **must** to report it to the ACCC within two days.
-  The ACCC and Federal Minister can compulsorily recall dangerous products.





ACCC Contacts



Small business helpline

1300 302 021



www.accc.gov.au/smallbusiness



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www.accc.gov.au/sbin



Free Online Training Programs

www.ccaeducationprograms.org

Join the *Small Business in Focus* mailing list!



Small business in focus

Small business, franchising & agriculture news
Report no. 14

January-June 2017



In the last six months

10 800+
total subscribers to our four information newsletters hit over 10 000 for the first time

693 690
page views of small business education resources on ACCC website

\$512 840
reported small business scam losses¹

3
enforcement actions taken for alleged Franchising Code breaches

Coming up this year

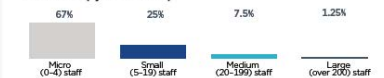
- Excessive payment surcharge ban on all businesses – 1 September
- New car retailing market study report – late 2017

What businesses contact the ACCC?

Business age



Business size (by staff numbers)



1. In this report we have applied a new methodology on how we identify scams reported by small businesses. We are now only reporting on those that have specifically identified themselves as a small business. This has resulted in the reported losses to be lower than previous reports.