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## Commercial Law e-alert

# ACCC releases guidelines for carbon pricing

The Australian Competition and Consumer Commission (ACCC) will be keeping a close eye on businesses when it comes to the new carbon pricing scheme.

The consumer body released guidelines this week to help businesses understand their obligations in not making false or misleading statements to a consumer about the impact of the carbon price.

Parliamentary Secretary to the Treasurer, David Bradbury said that "while business costs change frequently and prices can increase at any time, the carbon price is expected to have only a modest impact on most prices".

### Clean Energy Act 2011

The new Clean Energy Act 2011 (and associated legislation) establishes a national carbon pricing scheme which will operate in two phases:

1. A fixed price phase from 1 July 2012 to 30 June 2015, starting at \$23/tonnes of CO<sub>2</sub> equivalent (tCO<sub>2</sub>-e) for 2012 – 2013 and then increasing to \$25.40/tCO<sub>2</sub>-e for 2014 – 2015.
2. A floating price phase commencing on 1 July 2015 where the Federal Government will set annual caps on the number of carbon units to be issued in each year. The price of those units is to be determined by the market forces of supply and demand, subject to carbon unit floor prices for the first three years of phase two.

### Penalties may apply

The ACCC will use its powers under the newly introduced Australian Consumer Law to investigate and prosecute businesses which mislead consumers about the impact of putting a price on carbon pollution. Misleading conduct could result in penalties of up to \$1.1 million.

### What this means for you

If you choose to make a claim about the impact of a carbon price, you need to make sure it is right. Businesses liable under the new carbon pricing law have to consider how they allocate liability under the carbon pricing scheme – whether it be within their corporate group or unincorporated joint ventures. This is in relation to both statutory and contractual liability.

We recommend putting into action appropriate and effective compliance systems that incorporate cost transfer and allocation mechanisms.

Please contact us if you would like to know how this will impact your business.

### Contact us

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