

MICHAEL HODGE KC

YEAR OF CALL: 2004 | YEAR OF SILK: 2017

Michael took Silk in 2017 and practises nationally in all kinds of complex commercial disputes. He has a particularly prominent reputation in the areas of competition, class actions, corporate law and financial services. He is ranked by *Legal 500* as a leading Silk at the Australian Bar for commercial disputes and competition law, by *Best Lawyers®* for litigation, public, regulatory and competition law, and by *Doyle's Guide* for competition law.

In 2018, he was one of the Senior Counsel assisting the *Royal Commission into Misconduct in the Banking, Superannuation and Financial Services Industry*. With a strong track record of getting across material in a short space of time, ability to grasp legal complexities and approachable demeanour, Michael is a KC of choice for appearing before or assisting commissions of inquiry and public reviews.

In the fast-developing area of class actions, Michael has established himself as a prominent barrister defending class actions. He has worked with government entities against actions concerning robodebt, climate change disclosure and energy prices.

In competition law, Michael appears for and advises Australian and foreign corporations, and their directors and officers, in relation to investigations and proceedings in respect of allegation concerning mergers, cartels, abuse of market power, and unconscionable conduct.

AREAS OF PRACTICE

Appellate, Arbitration, Banking, Class Actions, Commercial Equity, Competition & Consumer, Contract, Corporate Insolvency & Bankruptcy, Corporations, Inquiries & Coronial Inquests, Judicial Review & Administrative, Media & Defamation, Professional Negligence.

CASES

Australian Securities and Investments Commission v BPS Financial Pty Ltd[2024] FCA 457
May 2024, Corporations, Contract, Banking, Insurance

LEVEL

TWENTY
SEVEN

CHAMBERS



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McFarlane as Trustee for the S McFarlane Superannuation Fund v Insignia Financial Ltd (No 2)[2024]FCA 356

April 2024, Corporations, Corporate Insolvency & Bankruptcy

J Hutchinson Pty Ltd v Australian Competition and Consumer Commission[2024] FCAFC 18

February 2024, Competition & Consumer

Johnston & Ors v Carroll (Commissioner of the Queensland Police Service) & Anor; Witthahn & Ors v Wakefield (Chief Executive of Hospital and Health Services and Director General of Queensland Health); Sutton & Ors v Carroll (Commissioner of the Queensland Police Service)[2024] QSC 2

February 2024, Class Actions, Human Rights & Discrimination, Judicial Review & Administrative

McFarlane as Trustee for the S McFarlane Superannuation Fund v Insignia Financial Ltd[2023] FCA 1628

December 2023, Class Actions

NGI Savannah Living Communities Pty Ltd v Dunne & Ors[2023] QSC 273

December 2023, Competition & Consumer

NuGrow Ipswich Pty Ltd v Chief Executive of the Department of Environment and Science [2023] QPEC 45

November 2023, Planning & Environment

O'Donnell v Commonwealth of Australia[2023] FCA 1227

October 2023, Class Actions, Competition & Consumer, Planning & Environment

Australian Golf Management Corporation Pty Ltd v Logan City Council[2023] QSC 222

October 2023, Contract

Queensland Nickel Sales Pty Ltd v Park in his capacity as liquidator of Queensland Nickel Pty Ltd (in liq) [2023] FCAFC 150

September 2023, Corporate Insolvency & Bankruptcy

Australian Competition and Consumer Commission v BlueScope Steel Limited (No 6)[2023] FCA 1029

August 2023, Competition & Consumer

Chief Executive Medicare on behalf of Commonwealth of Australia v Healius Pathology Pty Ltd[2023] FCA 981

August 2023, Competition & Consumer

Australian Competition and Consumer Commission v Lactalis Australia Pty Ltd (No 2)[2023] FCA 839

July 2023, Competition & Consumer

Chief Executive Officer of the Australian Transaction Reports and Analysis Centre v Crown Melbourne Limited [2023] FCA 782

July 2023, Corporations

CIP Group Pty Ltd v So (No 3)[2023] FCA 518

May 2023, Contract

CIP Group Pty Ltd v Watters in his capacity as receiver and manager of GGPG Pty Ltd[2023] FCA 329
April 2023, Corporate Insolvency & Bankruptcy, Corporations

Murdoch v Private Media Pty Ltd (No 5)[2023] FCA 440
April 2023, Media & Defamation

Cameron v Cameron & others[2023] QSC 61
March 2023, Commercial Equity, Land Law & Property

The State of Queensland Acting through the Department of Transport and Main Roads v Black Cat Civil Pty Ltd & Ors[2023] QSC 5
February 2023, Judicial Review & Administrative, Building & Construction

Murdoch v Private Media Pty Ltd (No 4)[2023] FCA 114
January 2023, Media & Defamation

Murdoch v Private Media Pty Ltd (No 2)[2023] FCA 1607
December 2022, Media & Defamation

Murdoch v Private Media Pty Ltd (No 3)[2023] FCA 1608
December 2022, Media & Defamation

CIP Group Pty Ltd v So[2022] FCA 1490
December 2022, Competition & Consumer

Australian Competition and Consumer Commission v BlueScope Steel Limited (No 5)[2022] FCA 1475
December 2022, Competition & Consumer

Park, in the matter of Queensland Nickel Pty Ltd (in liq) (No 3)[2022] FCA 1301
November 2022, Corporate Insolvency & Bankruptcy

Murdoch v Private Media Pty Ltd[2022] FCA 1275
October 2022, Media & Defamation

Australian Competition and Consumer Commission v Lactalis Australia Pty Ltd[2022] FCA 1087
September 2022, Competition & Consumer

Canavan v ICRA Rolleston Pty Ltd[2022] QCA 110
June 2022, Corporations, Contract

Park, in the matter of Queensland Nickel Pty Ltd (in liq) (No 2)[2022] FCA 705
June 2022, Corporations

Park, in the matter of Queensland Nickel Pty Ltd (in liq)[2022] FCA 667

June 2022, Corporate Insolvency & Bankruptcy

Johnston & Ors v Carroll (APM, Commissioner of the Queensland Police Service)[2022] QSC 115

June 2022, Human Rights & Discrimination

Slea Pty Ltd v Connective Services Pty Ltd (No 9)[2022] VSC 136

March 2022, Corporations

Stanwell Corporation Limited v LCM Funding Pty Ltd[2022] FCA 1430

November 2021, Corporations

Australian Competition and Consumer Commission v NQCranes Pty Ltd[2021] FCA 1270

October 2021, Competition & Consumer

O'Donnell v Commonwealth of Australia[2022] FCA 1223

October 2021, Competition & Consumer

Australian Competition and Consumer Commission v BlueScope Steel Limited (No 3)[2021] FCA 1147

September 2021, Competition & Consumer

CMC Property Pty Ltd & Ors v Rankin Investments (Qld) Pty Ltd & Anor[2021] QCA 173

August 2021, Contract

Equititrust Limited v Tucker & Others[2021] QSC 188

July 2021, Corporate Insolvency & Bankruptcy

Epic Games, Inc v Apple Inc[2021] FCAFC 122

July 2021, Competition & Consumer, International

Dyer v Chrysanthou (No 2) (Injunction)[2021] FCA 641

June 2021, Media & Defamation

Prygodicz v Commonwealth of Australia (No 2)[2021] FCA 634

June 2021, Class Actions

Australian Competition and Consumer Commission v Tasmanian Ports Corporation Pty Ltd[2021] FCA 482

June 2021, Competition & Consumer

Re Canberra Babington Pty Ltd[2021] NSWSC 552

May 2021, Corporations

Re ICRA Rolleston Pty Ltd[2021] QSC 98

May 2021, Corporations, Contract

CMC Property Pty Ltd & Ors v Rankin Investments (Qld) Pty Ltd[2021] QSC 94

May 2021, Contract

Queensland Productivity Commission [2021]

February 2021, Competition & Consumer

Royal Commission into Misconduct in the Banking, Superannuation, and Financial Service Industry

February 2019, Banking, Competition & Consumer, Inquiries & Coronial Inquests, Professional Discipline & Regulatory

Australian Competition and Consumer Commission v Flight Centre Limited (No 2)[2018] 356 ALR 38

December 2018, Competition & Consumer

ACCC v Oakmoore Pty Ltd [2018] FCA 1169 & Australian Competition and Consumer Commission v Oakmoore Pty Ltd (No 2) [2018] FCA 1169

August 2018, Competition & Consumer

Mango Boulevard Pty Ltd v Mio Art Pty Ltd [2018] QCA 039

March 2018, Corporate Insolvency & Bankruptcy, Corporations

Legal Services Commissioner v Reid (No 3)[2017] QCAT 471

December 2017, Corporations, Professional Discipline & Regulatory

Investigation into the transport of waste into Queensland [2017]

October 2017, Inquiries & Coronial Inquests

Australian Competition and Consumer Commission v Cement Australia Pty Ltd [2017] FCAFC 159

October 2017, Appellate, Competition & Consumer

Public inquiry into the Australian dairy industry [2017]

September 2017, Inquiries & Coronial Inquests

Stroppiana & Ors v Mackay Sugar Ltd [2017] QSC 217

September 2017, Contract

Wilmar Sugar Australia Limited v Mackay Sugar Limited [2017] FCAFC 40

March 2017, Professional Discipline & Regulatory

Review into the Queensland Parole System [2017]

February 2017, Inquiries & Coronial Inquests

Inquiry into Queensland Rail's train crewing practices [2017]

February 2017, Inquiries & Coronial Inquests

ACCC v Flight Centre Travel Group Ltd [2016] 261 CLR 203; HCA 49

December 2016, Competition & Consumer

Australian Competition and Consumer Commission v Woolworths Limited [2016] FCA 1472

December 2016, Competition & Consumer

Australian Competition and Consumer Commission v Chrisco Hampers Australia Limited[2015] FCA 1204

November 2015, Competition & Consumer

Grantham Floods Commission of Inquiry

October 2015, Inquiries & Coronial Inquests

Jones & Ors v Invion Ltd & Anor[2015] QCA 100

June 2015, Corporations

Australian Competition and Consumer Commission v Coles Supermarkets Australia Pty Ltd[2014] FCA 1405

December 2014, Competition & Consumer

Melisavon Pty Ltd v Springfield Land Development Corporation Pty Limited[2014] QCA 233

March 2014, Contract

Australian Competition and Consumer Commission v Exclusive Media & Publishing Pty Ltd[2014] FCA 228

March 2014, Competition & Consumer

EXPERIENCE

COMPETITION & CONSUMER

Having acted in matters concerning a vast breadth of competition and consumer law, including regularly acting for the ACCC, Michael is regarded as a leading barrister in this area of law. Below are some examples of the variety of issues and industries he has been engaged with.

- > Matter concerning the contravention of s 45(2)(a)(ii) of the *Trade Practices Act 1974* (now the *Competition and Consumer Act 2010*) where a supply arrangement for polycarbonate roof sheeting had the likely effect of substantially lessening competition in the market.
- > Acting for the ACCC in multiple proceedings alleging Flight Centre attempted to induce airlines to enter into an arrangement to fix, control or maintain flight prices.
- > Appearing for the ACCC in an appeal against a cement company in respect of contracts allegedly contravening s76 of the *Competition and Consumer Act 2010* (Cth) and considered whether a contravening contract ought to be separately penalised or treated as a single course of conduct.
- > Acting for the ACCC in separate matters against national supermarkets in claims of unconscionable conduct within the meaning of s 21(1) of the *Australian Consumer Law*.

> Appearing for the ACCC against a goods supplier alleging an “unfair term” within the meaning of s 24 of the *Australian Consumer Law*.

> Acting for the ACCC against a media company seeking declarations, injunctions and pecuniary penalties for misleading and deceptive conduct.

REGULATORY

Michael advises and acts for individuals and companies in respect of regulatory obligations who are party to disputes or subject to investigations. Below highlights some of the variety of matters Michael has previously been briefed on.

> Acting for and advising regulators undertaking investigations or instituting proceedings and assisting and advising companies and individuals involved in or the subject of regulatory investigations or proceedings.

> Dispute concerning mill owner directors appointed to the Board of Queensland Sugar Limited in relation to the *Sugar Industry (Real Choice in Marketing) Amendment Act 2015 (Qld)*.

> Matter where a legal practitioner was company secretary and corporate counsel for Racing Queensland and whether the practitioner breached fiduciary or equivalent duties when instructing legal firms about terms of executive employment contracts including her own.

INQUIRIES & INVESTIGATIONS

With in depth experience of working as part of Commissions of Inquiry and investigations, Michael is well placed to advise, assist and appear at all stages of inquiries.

> Engaged as part of the Public Inquiry into the Australian dairy industry to establish a long term solution to the dairy crisis, including the legality of milk contracts.

> Advising the Queensland Productivity Commission in relation to a competitive neutrality complaint.

> Appearing in the Royal Commission into Misconduct in the Banking, Superannuation and Financial Services Industry.

> Counsel engaged in the Investigation into the Transport of Waste in Queensland.

> Involved in the Inquiry into Queensland Rail's train crew practices investigating circumstances associated with the disruptions to the Citytrain timetable.

> Briefed in the Queensland Parole System Review which sought input from victims' organisations, organisations working with offender, academics and experts.

> Engaged in the Grantham Floods Commission of Inquiry investigating the man-made factors affecting the 2011 flooding of the Lockyer Creek.

CONTRACT

Contractual disputes form a major part of Michael's practice. He advises and appears for companies, construction entities and individuals at all stages of the dispute resolution process. Below are recent examples of matters Michael has been engaged on.

- > Acting for Mackay Sugar against declarations as to the operation of a contract and an injunction to prohibit breach of the contract which was a standard form "Cane Supply and Processing Agreement" ("CSPA") supply contract between the respondent and growers for the supply of sugar cane by growers to the respondent.
- > Dispute arising from a contract between a sugar mill and a logistics company regarding the logistics company's invoices to transport sugar to a mill.
- > Acting for the appellant in a dispute regarding the completion of the construction of a clubhouse.

RECOMMENDATIONS

CHAMBERS & PARTNERS (ASIA PACIFIC)

2023-24 – Competition/Antitrust and Dispute Resolution

DOYLE'S GUIDE (AUSTRALIA WIDE)

2023 – Recommended in Class Actions

2018-2023 – Recommended in Competition Law

DOYLE'S GUIDE (QUEENSLAND)

2023 – Recommended in Insolvency & Restructuring

2018-2023 – Recommended in Commercial Litigation & Dispute Resolution

LEGAL 500 (ASIA PACIFIC)

2024

– Commercial Disputes *"Michael is an excellent barrister – very intelligent and also very commercial. He creates a very stress-free environment for those in the team. He is relaxed to work with, and he is very open to hearing the views and input of others in the team. His advocacy style is very effective – and clients are always very happy with him."*

– Competition *"He is bright, and gets across material and issues quickly. He is a very experienced and agile advocate. He reads the court room well. He is an extremely effective cross-examiner who knows how to destroy an expert witness. Michael has established himself as one of the leading silks in competition law in the country."*

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2023

- Commercial Disputes *“a new generation of KC that is collaborative, commercial and pragmatic in his approach”.*
- Competition *“Extraordinarily bright and able to digest very large amounts of complex material in a short period of time, and refine to key issues and clever strategy. Very receptive and approachable, great to work with. Excellent on his feet, attentive to the bench – and a lethal cross-examiner”.*

2022

- Commercial Disputes *“A high profile senior counsel briefed as counsel assisting on the Financial Services Royal Commission.”*
- Competition *“Michael is an outstanding advocate and very commercial. He can digest and advocate a position with ease and in the most favourable way for a client. Michael is one of the new generation of leading silks at the Australian Bar.”*

AUSTRALIAN FINANCIAL REVIEW’S BEST LAWYERS®

2023 – Listed for Competition, Public and Regulatory Law, as well as Litigation. Listed as Sydney’s Regulatory ‘Lawyer of the Year’.

MEMBER

Member - Corporations Committee, Law Council of Australia

Member - Competition and Consumer Committee, Law Council of Australia

Member - Australian Association of Constitutional Law

Member - Bar Council Association of Queensland

Member - LawRight

PUBLICATIONS

Declaratory Relief Concerning Misuse of Market Power Confirmed as Appropriate in Interest of Justice
June 2021, Competition & Consumer

Liability limited by a scheme approved under professional standards legislation