



## Ayman Guirguis

### Partner

Sydney  
+61.2.9513.2308

[ayman.guirguis@klgates.com](mailto:ayman.guirguis@klgates.com)

## OVERVIEW

Ayman Guirguis advises clients on all aspects of antitrust and competition law as well as consumer law. Ayman has a wealth of experience advising clients on merger clearance, joint ventures and on supply chain arrangements between suppliers and customers. He also has experience defending court actions by the Australian Competition & Consumer Commission (ACCC) and other market participants and advising on, setting up and implementing competition law and consumer law compliance programs.

Ayman regularly advises on, and responds to, regulatory investigations by the ACCC alleging cartel conduct (price fixing, market sharing or bid rigging), including making immunity and leniency applications, competitor interactions at Industry Associations, as well as on other anti-competitive allegations such as misuse of market power, exclusivities, including defending litigation commenced by the ACCC.

Ayman also counsels clients on the Australian Consumer Law, including advertising and sales, marketing practices as well as compliance programs and audits.

Ayman has acted for clients across a range of industries including petroleum, oil and gas, property and construction, financial services, packaging, IT, retail, including food and fast moving consumer goods (FMCG) and pharmaceutical.

## PROFESSIONAL BACKGROUND

Prior to joining the firm, Ayman was a partner of two national Australian firms for a period of 16 years. He was also a senior officer in both the Mergers Branch and Enforcement branches of the ACCC.

## ACHIEVEMENTS

- Listed by Who's Who Legal Thought Leaders: Competition, 2024
- Recognised by *The Legal 500 Asia Pacific* as a Leading Individual for Competition and Trade in Australia, 2022-2024
- Recognised as a Global Elite Thought Leader by Who's Who Legal in the area of Competition, 2021

- Listed *Euromoney's Expert Guide* for Competition and Antitrust in Australia, 2020-2021
- *Lawyers Weekly*, finalist in the Partner of the Year Awards for Competition, Trade and Regulation, 2020-2021
- Recognised by *The Legal 500 Asia Pacific* as a Recommended Lawyer in Australia
  - Regulatory Compliance and Investigations, 2018-2020
  - Competition and Trade, 2015-2021
- Recommended by Who's Who Legal (Australia) in the area of Competition, 2017-2023
- Listed in *The Best Lawyers in Australia*™ for Competition Law, 2013-2024
- Recommended by Who's Who Legal (Global) in the area of Competition, 2012-2023
- Recognised by *Chambers Asia-Pacific* for Competition/Antitrust in Australia, 2008-2024

"I have been dealing with Ayman for more than ten years and have followed him between firms due to his deep industry knowledge and quick, commercial and pragmatic advice." and "Ayman is a pleasure to work with. He is deeply knowledgeable and incredibly practical and pragmatic." (*Chambers Asia-Pacific* 2024)

"Ayman Guirguis is a stand out in this space. Ayman is attentive, highly responsive, knowledgeable, and experienced. Ayman is deeply experienced in liaising with regulators and understands what is required. Ayman's advice is practical, honest, and succinct, all of which are critical when working to strict timeframes." (*The Legal 500 Asia Pacific* 2024)

"Ayman Guirguis is very knowledgeable on competition and consumer law issues. He is also very easy to work with and has a deep understanding of our business, which makes him a valuable legal partner." (*The Legal 500 Asia Pacific* 2023)

"Ayman is well-respected, experienced and easy to work with. You always feel like he is giving you 110% attention and effort. He is refreshingly practical and realistic rather than being overly conservative. He goes out of his way to keep in touch. As he has clients across a number of industries, he sees a breadth of issues and regulatory engagement which is insightful." (*The Legal 500 Asia Pacific* 2023)

"Ayman Guirguis is a long-term legal partner and advisor to our business. He has a wide breadth of knowledge and experience which is highly trusted by our team." (*The Legal 500 Asia Pacific* 2023)

Ayman Guirguis "is very commercial, practical, easy to work with and responsive. He also has extensive and impressive experience across a range of sectors and clients, and has his finger on the pulse in relation to competition law developments and areas of regulatory focus." (*Chambers Asia-Pacific* 2022)

Ayman Guirguis "always strives to understand his client's businesses so he can provide relevant and practical advice. His advice is always well considered, detailed and with risk ratings to assist in-house counsel to make well-informed, strategic decisions with the business." (*The Legal 500 Asia Pacific* 2022)

Ayman Guirguis "has incredible attention to detail, and will run down every last fact or legal argument when providing advice." (*The Legal 500 Asia Pacific* 2022)

"Ayman Guirguis has a deep interest and understanding in his client's businesses and industries which allows him to deliver holistic, commercially-sound legal advice that considers the broader practical implications for the business." and "Each member of the team down to associate level is highly capable and it is apparent that they have the benefit of the close mentorship of Ayman Guirguis." (*The Legal 500 Asia Pacific* 2021)

Ayman Guirguis is identified by sources as "someone who takes the big picture and looks for solutions, as well as providing excellent legal analysis." (*Chambers Asia-Pacific* 2021)

Ayman Guirguis has this "insight into the mind of the regulator" and "very thorough, practical and timely advice on how things will play out" and known for his "very affable, down-to-earth manner" and willingness for clients to "bounce ideas off him." (*Chambers Asia-Pacific* 2020)

Ayman Guirguis is "a highly regarded competition lawyer whose practice combines a number of sector-specific skills with broad competition expertise. A satisfied client reports: He gets to the point, is at the forefront of the industry and regulation and is always pre-empting issues for us in an unprompted way." (*Chambers Asia-Pacific* 2019)

Ayman Guirguis is described as "very commercial and practical." (*The Legal 500 Asia Pacific* 2019)

Ayman Guirguis is "well known in the market for his deep experience across all areas of Australian competition law. His dedication to his clients is also appreciated by interviewees, one of whom notes: Ayman is incredibly responsive and reliable and always makes you feel like your matter is top priority. He always goes out of his way to provide excellent service and to understand his client's business." (*Chambers Asia-Pacific* 2018)

Ayman Guirguis is "easy to work with and showcases a commercial approach with great breadth and depth of knowledge." (*The Legal 500 Asia Pacific* 2018)

- Australian Non-Government Adviser representative of the International Competition Network, 2009-2017

## PROFESSIONAL / CIVIC ACTIVITIES

- Law Council of Australia Competition and Consumer Law Committee member
- American Bar Association member
- International Bar Association member
- Association of Corporate Counsel member
- Law Society of New South Wales member

## EDUCATION

- LL.M., University of Sydney, 1999
- LL.B., University of Sydney, 1987
- Bachelor of Economics, University of Sydney, 1985

## ADMISSIONS

- Federal Court of Australia
- High Court of Australia
- Supreme Court of New South Wales
- Supreme Court of Victoria

## THOUGHT LEADERSHIP POWERED BY HUB

- 12 April 2024, Government Announces Australia to Have a Mandatory and Suspensory Merger Control Regime
- 12 March 2024, Cost of Living, Sustainability and the Digital Economy: ACCC Releases Its 2024-25 Compliance and Enforcement Priorities
- 21 February 2024, Australian CPD Series 2024
- 21 February 2024, Australian CPD Series 2024: Recent Developments in Competition and Consumer Law—Changes to the Laws, Key Prosecutions and Legal Actions
- 21 February 2024, Australian CPD Series 2024
- 21 February 2024, Australian CPD Series 2024: Recent Developments in Competition and Consumer Law—Changes to the Laws, Key Prosecutions and Legal Actions
- 17 January 2024, Australian Unfair Contract Terms Laws and International Business: High Court Finds Global Contract Subject to Australian Laws and Class Action Waiver Clause to be Unfair
- 10 November 2023, Expanded Unfair Contract Terms Regime Has Commenced - Are You Compliant?
- 26 October 2023, Is '*Freedom-Washing*' the New Greenwashing, and What are its Legal Consequences?
- 20 July 2023, The ACCC's Eight Commandments for Environmental and Sustainability Claims and Avoiding Greenwashing and Breaches of the Australian Consumer Law
- 28 March 2023, Pricing and Selling of Essential Services, Greenwashing, Unfair Contract Terms, Among the ACCC's 2023-24 Compliance and Enforcement Priorities
- 27 March 2023, Legislative Corrosion of Time Bars in Construction Contracts
- 3 March 2023, So You're Green – Prove It or Be Prosecuted: ACCC Sweep Finds 57% of Green Claims "Concerning"
- 27 September 2022, One Size Does Not Fit All: Court Declares 38 Terms in Fujifilm Small Business Contracts to be Unfair and Void

- 23 August 2022, The Government Ramps up Penalties for Competition and Consumer Law Breaches - AU\$50 Million or 30% Turnover for Companies and AU\$2.5 Million for Individuals
- 21 July 2022, Greater Penalties for Competition Breaches and Unfair Terms, Responsiveness to Super Complaints: The Labor Government's Approach to Competition & Consumer Laws
- 8 March 2022, Greenwashing, Digital Advertising and Platform Issues, Financial Services and Consumer Guarantees: What the ACCC's 2022/23 Priorities Mean for Your Business
- February 2022, Unfair Contract Terms - Significant Broadening of Scope and Penalties for Breaches: Is Your Business Prepared?
- 21 October 2021, Unfair Contract Terms – Significant Broadening of Scope and Penalties for Breaches: Is your Business Prepared?
- 23 September 2021, Australian Active Wear Business Fined AU\$5 Million for Making False and Misleading COVID-19 Apparel Claims
- March 2021, ACCC Enforcement and Compliance Priorities: Risk Management for Your Business
- 5 March 2021, Regulating the Economic Pie: Key Takeaways From the ACCC's 2021 Enforcement Priorities
- 11 November 2020, Suppliers, Are You Prepared? Consumer Guarantees to Apply to More Goods and Services from July 2021
- 19 October 2020, Prohibition on Advertising Below the RRP Amounts to Illegal Resale Price Maintenance, ACCC Alleges
- 8 October 2020, COVID-19 (Australia): Updated Guide to ACCC Authorisations (October 2020)
- 18 August 2020, COVID-19: (Australia) August 2020 Update to the Guide to ACCC Approvals on Industry Collaboration
- 18 June 2020, Australian Merger Control: SLC v Industry Engineering or Economic Theory – Takeaways From Vodafone/TPG & Pacific National
- 5 June 2020, Clarity for Consumer Data Right Participants on Regulatory Obligations: Is Your Business Ready?
- 20 May 2020, COVID-19 (Australia): Guide to ACCC Approvals on Industry Collaboration
- 13 May 2020, COVID-19: (Australia) Beware and Behold: Grounded Events and ACL Obligations During COVID-19 Recovery
- 10 April 2020, COVID-19: (Australia) Government Bans Price Gouging, Exploitative Exports of Personal Protective Equipment
- 8 April 2020, COVID-19: (Australia) Cancellations, Guarantees and Other Statements: Australian Consumer Law Obligations During COVID-19

- 3 April 2020, COVID-19: (Australia) Competitor Collaboration in the Shadow of COVID-19 - The ACCC Takes a Pragmatic Approach
- 28 February 2020, Milk, Batteries, Healthy Snacks, two Cartels and a Coffin: The ACCC Enforcement Shopping List
- February 2020, Competition and Consumer Law Risks to be Aware of in 2020
- 14 February 2020, Trivago Shows you all the Different Prices...or Does it?
- 12 August 2019, ACCC's Digital Platforms Report: Market Power in Advertising, Search Services & Media & Privacy Implications
- 2 August 2019, Australian Mid-Market M&A Report
- 29 July 2019, Ready or not, Competition Law Exemptions for IP Rights are About to be Repealed
- 3 May 2019, Changes to ACL Mandatory Wording for Warranties Against Defects. Are you Ready?
- 5 April 2019, Who's the Fairest of Them all? Government and Opposition Battle Over Small Business Contract Protections
- March 2019, Managing ACCC Investigations in the Wake of Increased Competition and Consumer Law Penalties
- 8 February 2019, ACCC 'Takes off' Against Airline's no Refund Policies: Passenger Transport, Hospitality & Leisure Providers Beware
- 14 December 2018, ACCC Seeks to Curb Digital Platform Market Power, Facebook Hits Back
- 27 November 2018, IP Exemptions to Competition Laws to be Removed: Restrictions in Licences to be Subject to Competition and Consumer Act 2010
- 24 August 2018, Penalties for Australian Consumer Law Breaches Increase Tenfold (if not More)
- 7 August 2018, Continued Antitrust Enforcement Against Non-Compliant Manufacturers in Europe: Significant Penalties Imposed for Fixing Resale Prices
- 19 July 2018, Merger Parties Beware: ACCC Commences First Gun Jumping Cartel Prosecution
- 21 May 2018, Supplying Products & Managing Margin Down Under: Online Price Erosion Strategies for Product Manufacturers in Australia and New Zealand
- 11 April 2018, Australia's Fines Not High Enough: The ACCC Redoubles its Focus and Sets out its Priorities
- February 2018, Competition Law Update: The New Concerted Practice Prohibition and its Implications for Your Business
- 21 February 2018, Australian First: Criminal Charges Laid Against Individuals for Alleged Cartel Conduct
- 01 February 2018, EU Judgment On Banning Sales Via Online Marketplaces - What Does It Mean For Non-Luxury Brands?



- 20 October 2017, Harper Amendments to Australia's Competition Laws Passed: ACCC Heralds a "new era" in Competition Law
- 14 September 2017, Unfair Contract Terms in Small Business Contracts: ACCC Takes its First Court Action Against JJ Richards
- 26 July 2017, ACCC and CrownBet Roll the Dice - Apply for Judicial Review of Tabcorp/Tatts Merger Authorisation
- 27 February 2017, Higher Penalties, Construction, Health and Energy: the ACCC Sets its Enforcement Priorities for 2017
- 15 December 2016, It is the Reality of the Commercial Relationship That Counts: Travel Agent Flight Centre is a Competitor to the Airlines
- 24 November 2016, Franchising Update
- 23 November 2016, ACCC Continues Probe into Offers of Extended Warranties
- 22 November 2016, Competition Law: Merger Clearance in Australia
- 3 August 2016, Are you Ready for the Extension of the Unfair Contract Terms Regime to Small Business?
- 27 July 2016, Are you Ready for the Extension of the Unfair Contract Terms Regime to Franchise Agreements?

## OTHER PUBLICATIONS

- "The Australian Government Ramps up Penalties for Competition and Consumer Law Breaches – AU\$50 Million or 30% Turnover for Companies and AU\$2.5 Million for Individuals," *Kluwer Competition Law Blog*, August 2022
- "Piercing the privilege veil in criminal cartels in Australia: Practical considerations for immunity (and leniency) applicants in seeking to reconcile their disclosure obligations", *ABA/IBA International Cartel Workshop*, June 2022
- "An offer you can't refuse: big changes coming to the Unfair Contract Terms regime," *Law Society Journal*, 8 April 2022
- "Anti-trust in a Time of Global Crisis: An Australia Perspective," *Australian Law Council's Annual Competition and Consumer Law Workshop*, November 2020
- "Competition Law: Merger Clearance in Australia," *Negotiated Acquisitions and Buyouts*, November 2016
- Chapter 2 - Australia, *The Cartels and Leniency Review - Edition 3*, January 2015
- Chapter 1 - Australia, *The Dominance & Monopolies Review*, September 2014

## NEWS & EVENTS

- 13 February - 21 February 2024, 2024 CPD Program—Australia
- 17 January 2024, The Legal 500 Recognises K&L Gates in 2024 Asia Pacific Edition
- 14 December 2023, Chambers Asia-Pacific 2024 Guide Recognises K&L Gates
- 7 February - 16 February 2023, 2023 CPD Program—Australia
- 16 January 2023, The Legal 500 Recognizes K&L Gates in 2023 Asia Pacific Edition
- 13 January 2022, Legal 500 Recognizes K&L Gates in 2022 Asia Pacific Guide
- 16 December 2021, Chambers Asia-Pacific 2022 Guide Recognises K&L Gates
- 23 November 2021, K&L Gates Assists Americold on Cold Store Acquisitions
- 14 September 2021, K&L Gates Assists HP in Restructuring HP Online Stores in Australia & New Zealand: Obtains Clearance from ACCC & NZCC for Resale Price Maintenance
- 10 August 2021, K&L Gates Acts for Dicker Data in AU\$68 Million Acquisition
- 23 June 2021, K&L Gates Assists GlobalX In Securing ACCC Clearance for D&D Sale
- 18 June 2021, K&L Gates Acts for Sweden's Sinch in US\$1.3 Billion Australian Acquisition
- 16 December 2020, K&L Gates Recognized in Chambers 2021 Asia Pacific and FinTech Guides
- 8 April 2020, K&L Gates Advises Pharmaceutical Wholesalers on Successful Application for COVID-19 Collaboration

## MEDIA MENTIONS

- Quoted, "'Disappointing': Lawyers bemoan loss of right to challenge ACCC merger decisions in court," *Lawyerly*, 10 April 2024
- Quoted, "'Disappointing': Lawyers bemoan loss of ability to challenge ACCC's merger decisions in court", *Lawyerly*, April 2024
- Mentioned, "Americold's AU\$1.7 Billion Acquisition of Agro", *Global Legal Chronicle*, December 2021
- Mentioned, "Dicker Data buys New Zealand's 'second-largest' IT distributor", *LawyersWeekly.com.au*, August 2021
- Mentioned, "Dye & Durham's AU\$170 Million Acquisition of GlobalX", *Global Legal Chronicle*, June 2021
- Mentioned, "K&L Gates assists in GlobalX merger", *LawyersWeekly.com.au*, June 2021
- Mentioned, "Swedish comms giant makes billion-dollar Aussie acquisition", *LawyersWeekly.com.au*, June 2021



- Mentioned, "Visy completes landmark glass packaging acquisition", *LawyersWeekly.com.au*, August 2020
- Mentioned, " ACCC greenlights pharmaceutical collaboration during COVID-19", *LawyersWeekly.com.au*, April 2020

## AREAS OF FOCUS

- Antitrust, Competition, and Trade Regulation
- White Collar Defense and Investigations

## INDUSTRIES

- Agtech
- Consumer Products
- Energy
- Luxury Products and Fashion
- Technology
- Telecommunication and Mobile
- Utilities

## EMERGING ISSUES

- Environmental Social Governance (ESG)

## REPRESENTATIVE EXPERIENCE

### Merger Clearance

- Obtained ACCC clearance for a digital health provider's acquisition of Medical Director (supply of practice management services to GPs).
- Obtained ACCC clearance for Visy Industries' acquisition of Owens-Illinois' glass manufacturing and beneficiation business in Australia.
- Obtained ACCC clearance for Sinch's acquisition of Message Media (supply of wholesale and retail broadcast SMS services to business).
- Obtained ACCC clearance for Americold's proposed acquisition of Agro Coldstores/Doboy; seeking ACCC clearance for Americold's proposed acquisition of Lago (both transactions, involve the supply of third party cold storage services).

- Acted for GlobalX and obtained ACCC clearance for Dye & Durham's proposed acquisition of GlobalX (supply of search services to law firms and banks, conveyancing software services and practice management software to law firms).
- Obtained ACCC clearance for a leading provider of water and wastewater treatment solutions in the sale of its water business to Dupont (supply of water treatment services).
- Acted for a provider of data and telecommunications services in the ACCC court proceedings regarding the acquisition of a telecommunications company.
- Acted for BlueScope Steel in the ACCC court proceedings regarding the acquisition of Aurizon's intermodal logistics business by Pacific National.
- Obtained ACCC clearance for Continental AG's proposed acquisition of Kmart Tyre and Auto network (the supply of tyre retailing services).
- Advised Hotels Combined on its sale to Booking Holdings (Booking.com).
- Acted for BASF in its acquisition of the divested assets from the merger of two agrochemical companies (the supply of agri products and ancillary products).
- Obtained ACCC clearance for the sale of the Milemaker retail petrol network to Caltex (supply of petrol retailing).
- Advised Landmark Holdings on its acquisition of Louis Dreyfus' Macrofertil business (supply of wholesale fertilizer services).
- Obtained ACCC clearance for acquisitions by Qscan in the medical imaging and radiology markets in Australia (supply of medical diagnostics services).
- Obtained ACCC clearance for acquisitions by Superior Food Services in foodservice markets in Australia (supply of foodservices distribution).
- Obtained ACCC clearance for Archer Daniels Midland's proposed AUD3.4 billion takeover of GrainCorp (supply of grain storage services).
- Obtained ACCC clearance for the sale of Australian Power & Gas to AGL (supply of energy retailing services).
- Obtained ACCC clearance for a publicly traded international oil and gas company's sale of its Australian retail assets to Caltex and ultimately to 7-Eleven (supply of petrol retailing).
- Advised IOOF on merger control issues and on the acquisition of an interest in Equity Trustees (supply of trust services).
- Obtained ACCC clearance in Australia and New Zealand for the proposed acquisition by Visy Industries of the plastics business of HP Industries (supply of single stage plastics manufacture).
- Obtained ACCC clearance for a number of acquisitions by HP (supply of IT hardware).

## Investigations, Litigation and Advisory

- Successfully sought clearance in Australia from the ACCC, and in New Zealand from the NZ Commerce Commission for HP for certain resale price maintenance on HP Online Stores and HP Stores on online market places – this is the first such clearance in NZ and only the second in Australia; Obtained clearance for HP from the ACCC for resale price maintenance conduct on HP Online Stores.
- Successfully sought clearance/authorisation from the ACCC allowing National Pharmaceutical Services Association (NPSA) and the four major pharmaceutical wholesalers in Australia to collaborate and if required limit supplies of certain medicines in the face of spikes in demand due to the COVID-19 pandemic and to collectively negotiate with Australia's Department of Health regarding arrangements for the distribution of COVID-19 Vaccines.
- Acted for Engage Marine, new entrant into towage and shipping pilotage, in the ACCC's first prosecution under the new Misuse of Market Power provisions.
- Defended Landmark in a prosecution by the ACCC alleging misleading conduct in the marketing of barley.
- Advised rental car companies (Thrifty, Europcar, Enterprise) in seeking clearance/authorisation from the ACCC to collectively negotiate terms with Cairns Airport.
- Advised major engineered stone manufacturers (Caesarstone, Smartstone and WK Marble and Granite) in seeking clearance/authorisation from the ACCC to require fabricator accreditation and potential refusal to supply.
- Advised HP in an investigation by the ACCC into the installation of firmware into HP printers to limit use of cartridges with non-HP chips.
- Successfully sought clearance/authorisation from the ACCC for Clubs Australia in its application to the ACCC to collectively negotiate with suppliers including Tabcorp and Foxtel.
- Advising Belkin following an investigation by the ACCC into Belkin's warranty practices and in Australia and worldwide to effect a safety recall of a portable wireless charger.
- Advised Visy Industries in an investigation by the ACCC into Unfair Contract Terms in the waste management industry.
- Defended ExxonMobil in Australia's largest 'dawn raids' by the ACCC alleging price fixing in the petroleum and bitumen industries and successfully defending proceedings commenced by the ACCC alleging price fixing.
- Advised an international Investment Bank in the ACCC's investigation of cartel conduct into foreign exchange and other bank benchmark rates.
- Advising senior executives of JP Morgan in the ACCC's/ Commonwealth Director of Public Prosecutions' (CDPP) prosecution of a number of banks alleging into cartel conduct in financial services in respect of a capital raising.

- Acted for Peak Care (and one of its executives) in the criminal prosecution by the ACCC/ CDPP of Country Care for cartel conduct.
- Advising the immunity applicant in an ACCC prosecution alleging cartel conduct in the supply of steel products in Australia.
- Defended HP in proceedings commenced by the ACCC alleging misleading or deceptive conduct and breaches of the Australian Consumer Guarantee regime.
- Advised LPO Group on collective negotiation issues and seeking Authorisation from the ACCC for collective negotiations with Australia Post.
- Advising Honda Australia on its response to Australia wide airbag recalls.
- Advising clients on investigations by the ACCC in the IT, agriculture, car rental and travel industries.
- Defended Campbell Arnott's in an ACCC investigation of claims by its biscuit business.
- Defended Australian Power & Gas in proceedings commenced by the ACCC alleging misleading and deceptive conduct and unconscionable conduct.
- Advised ANZ Banking Group in relation to various enquiries and ACCC litigation and, more generally; and advising its consumer business on credit card and ATM issues, as well as other suppliers of financial services including Macquarie Bank, UBS and GE.
- Advising industry associations such as the Australian Medical Association, the Australian Dental Association and the Australian Steel Institute regarding various competition issues and initiatives.

## **Compliance Program Rollout and Training**

- Rolled out national compliance programs for HP, Visy Industries, Honda Australia, Belkin, CIMIC/Leighton Group companies, De-Longhi and Medical Media.
- Provided compliance training to Americold, ANZ, Medibank, GMHBA, Leidos, McDonald Jones Homes, Porter Davis, Carlisle Homes and Stockland.