The dark side of counterfeiting:

Saving money or costing lives?

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Corrs&Effect is an occasional publication produced in-house by Corrs’ communications team. Corrs&Effect reflects the interesting business issues we work on at Corrs – issues that are relevant to many of our clients and the work they do. We welcome your feedback and ideas for future articles.

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Cover photograph: WWD/Condé Nast/Corbis
Counterfeit products a good deal? I’m just not buying it.

Counterfeiting is a serious crime that deprives brand owners of the income they should earn from the hard work they’ve put into developing and producing their products. In the United States alone, companies lose $250 billion each year due to counterfeiting.

Whether the target of the counterfeiting is a luxury item, articles of food or drink, clothing detergents, baby-wipes, or brake pads, manufacturers have the right to protect their reputation and if the brand has earned it, their prestige.

Corrs Intellectual Property partner, Stephen Stern, has seen the extent of counterfeiting grow significantly in the past ten years.

“In Australia, counterfeiting affects everyone. The Australian economy loses hundreds of millions of dollars every year in tax revenue due to the sales of counterfeit products. This means less money for infrastructure, schools and hospitals.

“When it comes to the issue of counterfeit goods, there are great dangers posed to the community from a whole host of products including those that you drink, ingest or put on your body. These problems are often ignored by governments, who tend to dismiss counterfeiting as a problem limited to products that don’t pose a public health and safety risk, such as counterfeit luxury goods or pirated DVDs.

“It is well documented that in Asia people have died from drinking counterfeit alcohol and been killed in plane and automobile crashes in the US where it has been established that counterfeit parts were the cause. There are cases where houses have burned down because counterfeit mobile phone chargers caught fire or counterfeit mobile phone batteries have exploded.

Other cases include a meningitis vaccine made of tap water, birth control pills made out of wheat flour and paracetamol syrup made out of industrial solvents.”

According to the World Health Organisation, in 2009, 20 million pills, bottles and sachets of counterfeit and illegal medicines were seized by customs authorities around the world. In a five-month operation coordinated by the International Criminal Police Organisation (INTERPOL) across China and seven of its south-east Asian neighbours, 33 people were arrested and 100 retail outlets closed.

But it’s not just potential health risks that counterfeiting of goods poses. In 2003 INTERPOL issued a media release warning of the link between counterfeiting and terrorism. INTERPOL Secretary General Ronald K. Noble stated: “The link between organised crime...
groups and counterfeit goods is well established, but INTERPOL is sounding the alarm that intellectual property crime is becoming the preferred method of funding for a number of terrorist groups.”

Mr Noble noted that law enforcement agencies do not generally treat intellectual property crime as a priority area, and there is less funding for such investigations than for counter-terrorism or illicit narcotics.

“Law enforcement agencies have to recognise that intellectual property crime is not a victimless crime. Because of the growing evidence that terrorist groups sometimes fund their activities using the proceeds, it must be seen as a very serious crime with important implications for public safety and security:”

Stephen Stern agrees:

“There is plenty of proof regarding the ties between terrorist activities and the sale of counterfeit goods. Counterfeits are a very easy way to earn significant income with minimal legal exposure. A terrorist can make good profits solely from the sales of counterfeit goods but does not need to be involved in their actual production. The entry costs—and risks of being prosecuted for counterfeiting crimes—are therefore relatively low and the profit margins from illegal sales very high.

“As well, when people buy a cheap copy of a luxury brand’s item, they believe the luxury companies make plenty of money and can look after themselves. But few people realise the darker implications of choosing to buy a counterfeit product. By making that choice to buy the counterfeit luxury bag or car battery, or food item, in turn you are quite possibly funding illicit terrorist activity.

Closer to home, sales of counterfeit goods continue to also have an impact on jobs.

“Buying counterfeit products damages legitimate Australian businesses, including importers, retailers, transport companies and the like, all of whom (even if they are the Australian subsidiary of a multi-national company) employ Australians. Buying counterfeit also stifles creativity. Often you will find a product shown on the catwalk that the counterfeiters are producing within six weeks, before the genuine product hits the shops.”

To avoid inadvertently purchasing counterfeit goods, Stern advises only buying from reputable retailers such as a luxury good manufacturer’s own store. “You can then be guaranteed you’re getting a genuine article that won’t fall apart in a couple of months and the peace of mind that you didn’t get taken for a ride.”

In France, the anti-counterfeiting laws are so tough that simply owning a fake product can be punishable by a hefty fine as well as confiscation of the product. Walk through French Customs carrying a fake Louis Vuitton handbag over your shoulder at your own risk.

“In Australia, the laws have yet to be modified to keep pace with the global counterfeiting explosion.

“In Australia brand owners would have a much better chance of stopping the counterfeit trade if Customs and the Government were prepared to support laws that are realistic. For example, in many countries the laws allow Customs to actually seize and destroy products that are counterfeit. In Australia, Customs can only temporarily detain counterfeit products that it detects being imported into Australia. Then there is an obligation to either obtain consent by the importer to forfeit the goods for destruction by Customs or the brand owner has to commence their own court action. Customs doesn’t actually destroy products unless they have the consent of the importer to forfeit the goods.

“Of course when Customs detains counterfeit goods, it informs the brand owners who then generally take action against the importers, commonly by launching court action in the Federal Court. Such court actions can mean that an importer of counterfeit goods, who may have paid only a few hundred dollars for a suitcase or two full of goods, can be hit not only by injunctions and court orders that the seized goods be destroyed, but also by costs orders for thousands of dollars. In addition, those importers or others found to have been selling counterfeit goods can risk having a damages order made against them by the court for many tens of thousands of dollars.

“I would propose having an extra box to tick on the passenger arrival card when you arrive in Australia to declare whether or not you are carrying any counterfeit or pirated products. This would allow penalties to be applied for making a false declaration if it was determined that the passenger did actually bring in counterfeit goods and the goods could be destroyed. It would certainly act as a deterrent. In addition, the offenders would have their names added to a Customs database, so whenever they arrived in Australia in future, their name would be flagged when their passport was scanned.”

Until this happens, what can businesses do right now to protect their brand and reduce the number of counterfeit goods

“By making that choice to buy the counterfeit luxury bag, car battery or food item, in turn you are quite possibly funding illicit terrorist activity.”
entering the country?

"Register your trade mark with Customs. Without registration you don’t have Customs looking out for the products or any form of border control at all. Secondly, businesses need to organise, and encourage other similar businesses to join relevant trade organisations to lobby Government to take effective action. Pulling together under the umbrella of an association is an effective way to lobby Canberra and get action on what is currently costing Australia not just jobs and revenue, but potentially lives as well."

SO HOW DO YOU SPOT A COUNTERFEIT?

• The prices of counterfeit products are generally much lower than those of genuine goods, although some counterfeit products are now sold at similar prices to genuine goods to give the illusion of "seconds", "sale items" or "unwanted gifts".

• Generally speaking, if the price of a product is too good to be true, then it probably isn’t true.

• Look for spelling mistakes on the product or packaging.

• With regards to fake designer handbags, it’s very easy to counterfeit a ‘certificate of authenticity’, hologram or serial number – if you can counterfeit a bag, then you can also counterfeit a piece of paper.

Clockwise from top left: Thousands of faked watches at the MHT Recycling SA company in Cressier, Switzerland; Counterfeit medication seized at the Swiss border in Bardonnex near Geneva, Switzerland; One of 180 bottles of counterfeit Tamiflu medication found in packages at an International Air Mail Center in the US; Counterfeit brake pads made of inferior metal that will wear out long before the genuine article; Counterfeit Burberry goods at a warehouse in the To Kwa Wan district, Hong Kong.
Success: it’s what you make it

It’s not just the abundance of success in Rufus Black’s life. It’s also the variety.

From being told that he was unlikely even to pass his HSC at Year 9 because of his dyslexia, he went on to take out five degrees in law, politics, and theology from the Universities of Melbourne and Oxford, where he was a Rhodes Scholar.

He’s now Master at Ormond College in Melbourne, having given up his partnership with the prestigious management consultancy McKinsey after nine years there. He is also involved in the world social enterprise, amongst other roles Chairing the Board of Teach for Australia.

He’s very clear on what it takes to be successful. Three things help: a vision you passionately care about in life, living without fear, and self-renewal.

“Having a successful life means being able to pursue the things that are important and fulfilling.”

“To do that it helps to have a vision of what you think is worthwhile, what matters to you, what makes your life rich and good. It’s not the length of time in meetings or the late nights working. It’s people, time you spend with your family, the quality of your relationship with colleagues and clients, and having the chance to explore who you are as a person.”

A way to start, says Rufus, is with a single
day. “Reflect back on a single day and what were the things that were important in that day. That will tell you what was significant. Then do it for a week, a month, a year. It’s a practice that can help give you perspective.”

Perspective and balance are two words Rufus uses often. He counts as one of the most important experiences of his life his final year at McKinsey when he worked part-time to capture as much of his twin girls’ pre-school life as he could.

Rufus is not a life without hard work and he says there are times when total dedication is required, but the key is in timing and balance.

“The 30s are a daunting time for people. They find and commit to a life partner, have children and pass through the eye of the professional needle all in one decade.

“It puts too much stress on the system. We need to change the model in organisations to help people manage that. There may be trade-offs, like gaining seniority a little later, but it may be worth it.”

In many organisations, Rufus says, fear plays too big a role. “Fear of being fired, of how you’ll be judged by peers, clients, bosses. It’s hard to live without fear, but it’s key because then you can focus on the integrity of what you’re doing.

“You can’t be your best if you live in fear – you won’t bring all your capacity to the job.”

Being capable and skilled are important, of course. But Rufus has his own take on this, as well. “You can’t underrate the technical stuff. Sure, you’ve got to be able to do a good NPV model, if you’re a lawyer you need top technical skills, but success comes from other things. The technical stuff is necessary, but it’s not sufficient.”

And that’s where renewal comes in. “You need to find serious sources of renewed energy and vitality. It might be in radical changes, like geography or career path. Life is long enough now to have multiple careers.”

Or it might be closer to home. “Make sure you’re fuelled by ideas that come from outside the sector or industry you work in. Dally in education. Keep engaging. Watch and listen for ideas.”

Engineers, Rufus says, should read classical literature. Those who work in the humanities should read The Scientific American. “Bring new ideas to problems, find fresh ways to think about relationships. It’s hard to get by being super-analytical in your own domain.”

But the real secret lies in who you are and how you live. “Live a life with sufficient simplicity that you’re not overcommitted. We create very complicated lives, which is not all bad, but there needs to be room for personal growth.

“Because success comes when you’re pursuing what you really care about.”

“You can’t be your best if you live in fear – you won’t bring all your capacity to the job”
The technology and company behind the breakthrough is called Neopec. It is a revolutionary technique that helps women regrow their breasts by using their own fat cells.

Neopec CEO and international stem cell pioneer, Dr Peter Mountford is charged with developing this world first technology.

“Neopec has the potential to be life changing for so many people.

“You don’t realise how many people are affected by breast cancer – mothers, fathers, husbands, daughters, friends – the flow on effects don’t discriminate.

“By helping women rebuild their breast with natural tissue, Neopec offers a long list of physical and importantly, emotional benefits to victims of breast cancer,” he said.

Pioneered by the O’Brien Institute, one of the world’s leading research centres for tissue engineering and microsurgery, the Neopec breast would look and feel natural, and would only require one operation.

With incidence of breast cancer worldwide on the increase and an estimated 1.5 million people diagnosed with breast cancer each year, it is little wonder there is so much excitement surrounding the possibilities.

In Australia alone, more than 13,000 women are diagnosed with breast cancer each year, and of those approximately 5,000 need to have a mastectomy.

Following the success of animal trials, a human trial is scheduled to start in November 2010. The trial is the first of its kind anywhere in the world.

Peter said that using the stem cells of our own fat to regenerate body parts is a huge step forward on current techniques – many of which just mask damage.

“The Neopec breast reconstruction could be the tip of the iceberg. If we are successful, the possibilities – from congenital deformities to traumas, breast augmentation and cosmetic procedures – are endless.

The technology could be widely available to breast cancer patients after a three year trial, while the cosmetic surgery industry will need to wait up to a decade.
HOW IT WORKS

Neopec is a combination of a device and a surgical procedure that utilises a woman’s own regenerative capacity to grow a living fat tissue substitute for breast reconstruction.

The process, Neopec™, involves implanting a biodegradable synthetic chamber. Surgeons then redirect blood vessels and a small fat pad from the woman’s underarm into the chamber.

If results seen in preclinical testing hold true, over the next four to six months the fat grows in the shape of the chamber, which dissolves after the new breast is formed. The Neopec chamber, made from a clinically-approved biodegradable material, can be customised to have the size, shape, strength and degradation properties to allow the growth of fat to fill the space permanently and precisely.

This will provide women with a unique surgical solution to breast reconstruction, giving them a natural breast which aesthetically matches the healthy one.

1. A breast-shaped Neopec chamber is inserted under the skin immediately after mastectomy. The synthetic chamber will act as a scaffold to support the growth of fat tissue.

2. Surgeons redirect blood vessels from under the patient’s arm into the chamber. A few grams of the patient’s fat cells are placed on the end of the vessels.

3. A special gel is placed in the chamber to stimulate the fat cells to multiply.

4. The fat grows in the shape of the chamber over the next four to six months to create a new “breast”.

5. The chamber is removed or dissolves after the new “breast” is formed.
Peter joined Neopec earlier this year, returning to Australia from the UK where he was President and Chief Executive Officer of Stem Cell Sciences, a dual listed multi-national company developing stem cell technology for the pharmaceutical industry. In addition to helping thousands of patients worldwide, he believes Neopec can develop and deliver a much needed business model to ensure local stakeholders reap greater benefits in the global marketplace.

“We have many partners contributing to this project in different ways – financial, surgical, engineering and biological. We’re keen to see everyone involved (including the local community) realise the benefits of this technology.”

Sadly, this isn’t always the case. “Too often, great Australian medical and scientific discoveries and developments are sold prematurely to the international market.”

Peter said that Australians are renowned for being leaders in innovation but fall short in realising the full commercial and economic benefits. “It’s time for this industry to become innovative in business, not just in discovery”, he said.

There are so many risk factors for small organisations like Neopec – developing the technology is only the first hurdle. Peter knows his organisation needs to be strong in science and business in order for it to be successful.

“For Australia to compete with big international players, you need to take a more holistic view of the innovation cycle.

“You can’t just focus on development. You need to collaborate across business and industry to ensure the gains of the full innovation cycle are realised on home soil. The irony is that by selling out too early, Australian consumers end up buying back products that were pioneered in this country – but at a retail price. Not only is part of the financial benefit lost, but also manufacturing, jobs and other associated benefits,” he said.

For Peter having the right business structure and model means that he can help Neopec keep the royalties at home and deliver a product to the market quickly and in a way that maximises patient safety.

“At the end of the day, this technology has the potential to change lives. “Being more savvy in business doesn’t change that – it just means that we can help more people,” he said.

**THE BENEFITS**

Breast cancer survivors can experience a range of difficulties, ranging from physical limitations to psycho-social problems.

Self esteem derived from feeling better about their bodies through breast reconstruction has been shown to be an important factor in their recovery.

Several methods of reconstructive surgery are currently used following mastectomy, each with its own associated risks.

Autologous flap reconstructions involve transferring sections of a woman’s fat tissue from the abdomen to the breast area. Another method is implant reconstruction, which involves placing a silicone-gel or saline filled implant behind or in front of the chest muscle.

With Neopec, women would have the benefit of a natural looking and feeling breast in only one operation - with no further surgery or corrective procedures required to repair scarring or implant damage. With this comes a shorter hospital stay, shorter recuperation time and no abdominal or back scarring as with tissue transfer surgery.

Surgeons will also benefit from a less complex procedure. Neopec will require less anaesthesia and will reduce the theatre costs often associated with tissue transfer procedures. The procedure may also potentially lower the levels of corrective surgeries that often come with implant reconstruction.

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COMMERCIALISATION – GETTING IT RIGHT FROM THE START

Corrs partner and commercialisation expert, David Smith knows how vital it is to get the commercial and legal framework right from the start of a project.

“When you have contributions from a number of stakeholders, it is important to establish the ground rules for negotiating collaboration agreements.

“Multi-party negotiations can easily become protracted, particularly when lengthy draft agreements are sent back and forth over weeks or months,” he said.

David suggests ways to avoid this occurring include asking each stakeholder to articulate, in plain English, what they propose to bring to and take out of the collaboration and project.

“This helps reduce future difficulties that might arise where a stakeholders’ interests are not aligned, or not understood by the other parties,” he said.

David also encourages collaborating parties to document their roles and responsibilities – both at the R&D stage and the commercialisation stage – settling issues such as which party will market the technology, who will make decisions about which patents to lodge and how any commercialisation proceeds will be divided up.

“By establishing the right governance and communications structure up front, a project is more likely to be successful - delivering the right outcomes quickly and cost effectively so everyone benefits,” he said.

ABOUT NEOPEC PTY LTD

Neopec Pty Ltd brings together the skills and expertise of a consortium of collaborating organisations including the Australian Tissue Engineering Centre, the O’Brien Institute, St Vincent’s Hospital, the University of Melbourne and commercial partners Anatomics and Cogentum.

Neopec’s breast reconstruction project is supported by the Victorian State Government via a $2.95 million grant under Victoria’s Science Agenda (VSA) Investment Fund. The $41 million VSA Investment Fund is supporting market driven collaborative projects that develop science and technology-based solutions.

Corrs lawyers David Smith and Frances Wheelahan worked with the O’Brien Institute to establish Neopec and to draft and negotiate documents for the development and commercialisation of Neopec’s technology.
Over the past decade, talent has become more important to companies than capital, strategy and R&D. Post GFC, the search for the best and brightest has become a challenging and costly battle. Organisations need to devise more innovative talent acquisition practices, and will have to work harder to keep their best people.

Only last year, a number of companies were putting in place strategies to reduce labour costs, including pay and hiring freezes, along with encouraging people to work part-time and take leave. Now just 12 months later, we are seeing a resurgence of the “war for talent”. Attractive salary packages and a nice office are no longer enough to draw in and retain the best talent.

So what gets people out of bed each day and want to go to work? This is the million dollar question for leaders and managers. Corrs’ Director of HR Alexis Navie says there is no “one size fits all” approach to retaining talent in organisations. It’s about doing your homework and understanding your people.

“I think it’s extremely important to understand the reasons for your attrition in order to get your retention strategy in the right zone. Where are your people going? Why are they going? Getting this right will help you shape the right people strategies and better understand your employees’ needs,” says Alexis.

“Remuneration is obviously important, but through our staff engagement surveys we’ve come to learn that benefits are just as important to our people. Initiatives such as study assistance, tailored learning and development programs and the chance to work with a variety of people, on exciting projects are crucial to retaining and attracting star talent.”

Indeed, clear people strategies and attractive remuneration structures go along way to keeping your staff happy, but Chris Lokum, HR Director at BP thinks that clear and honest communication with staff at all levels is just as critical to a company’s people strategy.

“It’s been a challenging year for us following the Gulf of Mexico incident. Staff were understandably concerned, so from the outset they were our primary concern. We decided to take an honest and transparent approach to keeping staff informed.”

Chris believes a strong internal communication vehicle is pivotal to managing the expectations of staff, particularly during times of change or uncertainty.

“Staff were communicated with almost daily during the peak of the incident, staff in certain departments were trained to answer the more mechanical questions being asked by staff, everyone was educated on the process and it went a long way to alleviating concerns. Without this, I think we would have seen a real disconnect between the organisation and our staff and we would have perhaps seen an increase in our attrition rates.”

She too believes that the non-tangible benefits are just as important to retaining staff as generous remuneration packages.

“We have in place an Employee Value Proposition which has been developed through comprehensive research of what our staff really values in their employer. While pay is an obvious factor in this, we have found that employer brand,

Keeping your **best**

According to a study by McKinsey & Co involving 77 companies and over 6,000 managers and executives, the most important corporate resource over the next 20 years will be talent. Are you prepared?
the value alignment and the culture of our organisation are highly regarded by employees, as factors for working for an organisation. We use this feedback to keep improving the initiatives we put in place to help develop and engage employees."

Another issue that has emerged as a priority for organisations is retaining talent returning to the workforce. Many organisations face the challenge of staff wanting to experience life in different countries or devote more time to their families – facts of life that can’t be competed with.

Flexible working arrangements and leave of absences are increasingly becoming attractive options for many employees. 

“When staff members take a leave of absence to pursue new avenues or go on parental leave, you want to make sure you have the right policies in place to attract them back to your organisation.” says Corrs partner and Diversity Council chair, Christine Covington.

“Part-time work, the option to work from home, access to technology to accommodate staff that can’t be physically present in an office, are all easy measures for organisations to put in place to accommodate talent returning to the workforce.”

Keeping employees abreast of developments within your organisation, while they are taking a break is just as important.

“You don’t want staff to feel disconnected from work while they are taking a break. It’s so important to keep them up to date on what is happening around the grounds so that when the time comes for them to return to the workforce, the transition is made that much easier.” comments Chris Lokum.

In his book The War for Talent, Ed Michaels wisely said retaining talented employees should not be a set of superior human resources processes, but a mindset that emphasises the importance of talent to the success of organisations. So often organisations pride themselves on how terrific their performance management processes are, or how great their new mentoring program is, but these things are only as good as the people who understand them and use them to achieve what is really important.

Research conducted by Hay Group has revealed that less than a quarter of business leaders believed their organisation’s talent management processes would deliver the leaders they need for the future. The problem lies in the generic approach taken to developing people strategies, instead of identifying and delivering on exactly what their staff need.

As the world emerges from the greatest economic crisis since the great depression, organisations have to be more forward thinking. Organisations need to understand their future direction as well as the changes happening in their markets and develop talent pipelines that will sustain new business environments.

It seems that listening – one of the easiest forms of human engagement – is the key to retaining talent. Getting this right, and most importantly delivering on the feedback you receive from staff, will hold most organisations in good stead as we surge forward in a new economic environment.
When you think of energy efficiency and large office buildings, you might consider switching off the lights after hours. Perhaps paper and waste recycling come to mind. Maybe you even think of green procurement policies.

What you may not have realised is that energy efficiency is now officially part of the law as of 1 November 2010, when the Building Energy Efficiency Disclosure Act 2010 was passed by Parliament. Disclosure obligations under the new legislation raise legal compliance issues for both property owners and tenants, says Corrs property partner, Christine Covington.

"The new mandatory disclosure legislation raises legal compliance issues for both property owners and tenants," says Corrs property partner, Christine Covington.

The commercial building sector is responsible for approximately ten per cent of Australia’s greenhouse gas emissions—generating around 60 million tonnes of greenhouse gas emissions in 2006.

There are more than 21 million square metres of commercial office space in Australia’s cities spread across nearly 4,000 buildings. It is expected that more than half of those buildings will be required to provide energy efficiency information when sold, leased or subleased.

The CBD program has been developed by the Australian, State and Territory governments, as part of a broad package of measures to encourage building energy efficiency. It is managed by the Australian Government Department of Climate Change and Energy Efficiency.

"The program is designed to improve the energy efficiency of Australia’s large office buildings," says Mark Davis, Director of the Department’s Commercial Building Disclosure team.

"Under the CBD program, most sellers or lessors of office space of 2,000 square metres or more will be required to obtain and disclose an up-to-date energy efficiency rating," he says.

The start date for disclosure was 1 November 2010, with a 12 month transition period to 31 October 2011. During the transition period, building owners and lessors need to disclose a valid NABERS Energy star rating when offering for sale, lease or sublease commercial office space with a net lettable area of 2,000 square metres or more.

The NABERS Energy rating must be a base or whole building rating, registered on the CBD program’s publicly accessible website and included in any advertising – including banners on buildings and in foyers, and advertisements in newspapers, brochures, magazines and Internet sites.

After the transition period, from 1 November 2011, building owners and lessors selling, leasing or subleasing commercial office space of 2,000 square metres or more will need a valid Building Energy Efficiency Certificate. These Certificates will include a NABERS Energy star rating, information about the energy efficiency of tenancy lighting, and general energy efficiency guidance.

"The CBD program effectively introduces a new due diligence checkpoint for vendors, purchasers and financiers of buildings containing offices," explains Christine.

"A building owner may find that a Building Energy Efficiency Certificate has to be registered because a tenant intends to sublet all or a substantial part of a building. Requisitions on title will need to be updated and mortgages will need to be updated to require compliance with the new provisions," she says.

Other legal considerations include amendments to office building management agreements to ensure building owners do not risk prosecution because of a manager’s breach of the Act.

Sales and letting agency agreements should also ensure that the agent doesn’t allow any advertising for sale, lease or sublease unless the building owner (or lessee for a sublease) has a registered and current Building Energy Certificate and discloses the building’s NABERS Energy star rating.

"Leases and subleases will need to include a provision requiring tenants to consent to inspections and audits under the Act. They’ll need to allow lessors to change lighting to improve the energy efficiency of the building and express provisions as to removal of lighting during tenancy make good,” says Christine.

Owners and lessors who don’t comply with the Act risk delays in the sale or lease of the building if they are not ready for mandatory disclosure.

If they proceed without disclosure, they risk a fine or prosecution. Civil penalties of up to $110,000 for the first day and $11,000 for each subsequent day may be imposed by a Court for each breach of a disclosure obligation. Alternatively, the Australian Department of Climate Change and Energy Efficiency can issue an infringement notice of up to $11,000 for the first day and $1,100 for each subsequent day of non-compliance.

The first step to comply with the CBD program is to get a NABERS Energy rating done, says Mark.

It can take several months to get a building’s first NABERS Energy rating done,
The commercial building sector is responsible for approximately ten per cent of Australia’s greenhouse gas emissions. To help combat this, new laws have just been introduced.

**Time to conserve your energy**

The commercial building sector is responsible for approximately ten per cent of Australia’s greenhouse gas emissions. To help combat this, new laws have just been introduced.

The national Australian Built Environment Rating System for energy efficiency and it requires access to 12 months of energy use data.

While around a third of Australia’s total building stock has been NABERS rated, many of the smaller private owners of second tier buildings have not yet had their buildings rated.

“We are encouraging all building owners and lessors to familiarise themselves with the NABERS Energy rating process now and start preparing well in advance of any planned sale or lease,” says Mark. NABERS Energy ratings are valid for 12 months and the required information only needs to be disclosed at the point of sale, lease or sublease to potential buyers or tenants.

For office buildings over 2,000 square metres, costs of complying with the CBD program are low in comparison to the total value of sale and lease transactions. Economic analysis of the program indicated that the average cost of a Building Energy Efficiency Certificate would be around $6,000. The cost of assessments could be affected by fluctuations in market pricing as well as the size, complexity and location of the building.

The Act sets out certain categories of exemptions from the requirements of the CBD program. Affected parties may apply for exemptions in situations where a building is used for police or security operations or where it is not possible to obtain a valid NABERS Energy rating or tenancy lighting assessment. New office buildings that are less than two years old, strata titled offices and offices offered for short-term lease of up to 12 months are not affected by the program.

“Apart from reducing Australia’s greenhouse gas emissions, there are other major benefits associated with more energy efficient offices,” says Mark.

“For every one-star increase in an office building’s NABERS Energy rating, there is an estimated 15 per cent saving in energy costs. Depending on local energy prices, this equates to a saving of around $3 per square metre annually which would mean that an average office building of 9,000 square meters would save around $27,000 per year.

“Disclosing energy efficiency also creates a more informed market that rewards better performing buildings and stimulates greater investment in energy efficiency, as buyers and tenants demand buildings that are more efficient,” he says.

As well as saving on energy bills, greener offices can be more comfortable to work in, improve staff wellbeing and productivity, reduce sick leave and support green building industry jobs.

Most offices can be cost-effectively improved to a high level of energy efficiency through good building management practices and appropriate equipment replacement cycles.


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1 National Australian Built Environment Rating System for energy efficiency
From paper clips to fighter aircraft to cleaning services, governments across Australia acquire goods and services on a daily basis. ‘Calls for tender’ have appeared in daily papers for as long as we can remember. Today, tendering via the internet is becoming the norm and with increased volume thanks to the Commonwealth Government stimulus packages in response to the Global Financial Crisis.

Governments are naturally concerned to ensure probity in the tendering process. Probity is one of those elusive words: We generally know what fails the test, but beyond that it is not easily defined. At its core lies a requirement for fairness, impartiality and ethical dealing, open competition, transparency, integrity, uprightness and honesty. Conflicts of interest must be properly managed, tenderers treated equally and rules and procedures complied with, without capriciousness. Of course there is also a strong imperative to prevent corrupt practices, though history shows even the best system devised by man is not “fail safe”.

To identify, promulgate and enshrine probity principles, governments have published guidelines and/or have established tender and contracting boards. A rich variety of these measures exists across Australia. At a Commonwealth level, detailed and comprehensive Commonwealth Procurement Guidelines have been established under the Financial Management and Administration Act 1997 and supported by best practice guides.

So at a time when governments want to simplify red tape and facilitate business and engagement with government, we ironically find ourselves with an excessive focus on the rules and procedures surrounding probity. This results in cumbersome, inflexible and prolonged procurement processes and many principles that fail the test of common sense, almost to the point of prejudicing the procurement itself or its timetable. Those processes can include mandatory attendance of independent probity advisors at every meeting, videotaping of meetings and full probity checks of all staff, no matter how incidental they are to decision-making or the size of the procurement.

It’s hard to see much common sense in these measures. For the tenderer, it just adds to the cost and length of the process. It comes as no surprise that major international contractors have described Australia as one of the hardest jurisdictions in which to do business with government.

Some OECD countries take a simpler approach, especially for run-of-the-mill procurements that are not particularly sensitive. Usually there are no separate probity advisors. In some jurisdictions an independent statutory office is available to advise governments and statutory authorities. The right of unsuccessful tenderers may be limited by statute, such as restricting the time when a challenge can be lodged, or by the available remedies. A useful example is the United Kingdom where a ten day ‘standstill period’ exists between the announcement of the preferred tenderer and the award of the contract.

Procurement procedures should minimise problems and criticism. Even with the best probity processes, mistakes, delays and disputes can still arise. Excessive procurement procedures don’t guarantee an improved outcome. Instead a common sense probity culture should be fostered so government employees understand the principles and are able to apply them in a useful and consistent way on a day to day basis.

In the United Kingdom, the Office of

Australian Government Procurement

Photo Illustration: Nick Sellars
General Commerce is an example of how government can clearly, effectively and independently provide advice on the procurement process to simplify and demystify the probity process.

Project managers and others acting for government can be given ongoing training on ethical and fair dealing and the different consequences of using words like “may”, “shall”, “will” and “must” using case studies and examples.

There are always complex procurements in which caution should be exercised, particularly if the goods to be supplied require innovative solutions. In such cases, it would be appropriate to appoint a probity advisor to ensure that the tender process allows tenderers to submit differing solutions and enables the government to select the solution that achieves best value for money. For example, a two stage process involving an expression of interest followed by a request for tender might be the best procurement strategy. The selection criteria will need to be drafted carefully to clarify mandatory criteria. But in unexceptional cases, the appointment of a probity advisor may well offer no benefit and should not be the norm.

Probity is an important consideration in all government procurements, but if we allow it to become an industry within itself, potential suppliers may be deterred from tendering. If the competition pool is reduced, it will become increasingly difficult for governments to obtain value for money.

The current approach to probity prolongs the procurement process. This can lead to added costs and unnecessary delays in the procurement of new infrastructure. Probity has become a runaway train. At the start of any procurement process, the relevant government should take a common sense approach in determining the level of probity rules that need to be applied, including whether complex probity requirements generate real and tangible benefits and whether the procurement would be materially jeopardised without them.

The clock needs to be wound back. This should be at the top of the agenda for reformist economic and finance ministers across Australia. As recent events have shown, the best processes in the world won’t help if the prevailing culture fails to support the ethical and commonsense environment that is, after all, at the heart of probity.
A BUMP IN THE ROAD?

The road to legislation that aims to bring the States into harmony was always going to be a little rocky. In October 2010, NSW Premier Keneally reneged on her previous commitment (in an Inter-Governmental Agreement) to the Model Work Health and Safety Bill. Premier Keneally has since stated that NSW will not enact the Model Bill unless:

- Unions have a right to bring prosecutions for breach of the legislation; and
- The defendant (not the prosecutor) has the onus of proving that all reasonably practicable steps were taken to prevent the OHS risk.

However, Prime Minister Gillard has maintained the position that harmonisation will go ahead as planned.

In addition to NSW’s position, Western Australian Premier Colin Barnett has also expressed that while Western Australia is prepared to accept the vast majority of recommendations of the review panel, it will not support all of them.

Despite this uncertainty, and the possibility that there may be differences in the legislation in WA and potentially NSW, it is almost certain that new and substantially harmonised OHS legislation will commence across Australia on 1 January 2012 – so don’t be put off by the politics, start to get ready now.
The Australian workplace continues to evolve. Today there are many different types and styles of work practice, conducted across work places that don’t just accommodate employees but also contractors and off-premises personnel. Making sure that all employees are safe, no matter what style of work situation they choose, is therefore more important than ever.

Currently Australia has different occupational health and safety laws in every State and Territory, creating an unnecessary level of complexity and difficulties for businesses that operate across Australia.

Despite operations being of the same nature, the cost implications of compliance with different laws in each jurisdiction is significant.

The Federal Government has recognised the difficulties for business and has undertaken a consultative process to develop model OHS legislation.

“Businesses can already foresee the benefits,” said Bob Stacy, General Manager Zero Harm of the Downer EDI Group.

“If the legislation is consistent across Australia, it should lead to a compliance cost reduction. For organisations that work across multiple jurisdictions, we’ll get consistency in the legal requirements and the approach of the Regulator, and therefore improved efficiency.”

Corrs Workplace Relations Partner, Val Gostencnik agrees.

“While I have always advised my clients to strive for best practice to meet higher standards so that they can comply with the lower standards in each State, these new laws will help to streamline processes and make it somewhat simpler for many businesses.

“And there are a number of things you should be doing to prepare,” he said.

Some of Val’s top tips include:

• Seek to understand the changes and your obligations
• Put in place a plan and timeline
• Implement a change management program to educate management and employees
• Undertake a compliance audit to ensure you comply with the legislation before it comes into effect
• Consider new systems that will help your officers satisfy their due diligence duties - from establishing clear OHS related accountabilities for management through to developing a process to verify compliance, it is important to be prepared.

Val believes OHS is paramount. “It should be a standing agenda item at board meetings as it is the safety net that protects all employees,” he said.
WHAT ARE SOME OF THE MAJOR CHANGES?

Instead of the significant variance in personal liability duties under current OHS legislation, there will be proactive duties to exercise due diligence imposed on management. This duty exists at all times and is imposed on officers separate to the obligations imposed on the business. This duty is imposed on ‘officers’ as defined in the Corporations Act 2001 (Cth). This includes directors and persons concerned in the management of an organisation.

TOP TIP: It is vital that organisations start considering the systems that will help their officers satisfy their due diligence duties.

Significantly higher penalties for breach of the legislation. The maximum fine for reckless conduct that exposes an employee to a risk of death or serious injury or illness will be $3 million for a corporation, and for an individual officer will be $600,000 and/or five years imprisonment.

There will be a single primary duty imposed on any person or entity that conducts a ‘business or undertaking’. This duty will be to ensure, so far as is reasonably practicable, the health and safety of workers or others whose activities are influenced or directed by that business or undertaking.

TOP TIP: An organisation’s systems to prevent risks to safety will need to extend more broadly than they currently are required to, which will require an analysis of the organisation’s operations and the ways the organisation may influence safety.

Union officials will have the right of entry powers which are consistent with the provisions of the Fair Work Act 2009 in addition to powers to:
- enquire, investigate and consult in relation to a suspected contravention of the Act or regulations;
- consult and provide advice to workers on OHS issues; and
- warn any person exposed to a serious risk to his or her health or safety, emanating from an immediate or imminent exposure to a hazard.

TOP TIP: Organisations should provide training to appropriate employees in order to understand the right of entry rules. This is beneficial to avoid unnecessary disputes based on a lack of knowledge.

The Regulator (such as WorkCover in New South Wales or WorkSafe in WA) will have access to additional enforcement options including direct immediate intervention, injunctions, and enforceable undertakings.

TOP TIP: Organisations should make themselves aware of the range of options that can be taken by the Regulator.

Consultation duties are expanded to not only extend to workers directly affected by the health and safety matter, but with other duty holders who have a duty in relation to the same matter.

TOP TIP: Organisations will need to consider how these consultation requirements will affect their operations and be implemented effectively. This will be particularly important on multi-party sites and Joint Venture initiatives.

Workers duties are expanded and clarified, to:
- take reasonable care for their own and others’ health and safety; and comply with:
  - any reasonable instruction to comply with this Act given by the person conducting the business or undertaking; or
  - any reasonable policy or procedure of the person conducting the business or undertaking relating to work health or safety that has been notified to workers.

TOP TIP: It will be important to train employees in the new systems resulting from the laws, and to explain their duties to them.
Veteran businessman Mark Johnson’s overriding memory of his short time in law is the back room at Pavey Wilson Cohen and Carter, one of the firms that ultimately became Corrs Chambers Westgarth. The room had a direct line to the accounts department at their largest client, Carlton United Breweries. “It was one of those old grind lines where you turned the handle to make it ring at the other end. Their terms were cash or bank cheque in three days. If they didn’t get that they used to send bankruptcy notices. It was all the pub owners would take notice of in those days.”

If brewery business was Mark’s rudimentary introduction to commerce, there was much to follow. Three years at Harvard Business School, a stint at a small merchant bank, then Hill Samuel, which ultimately became Macquarie Bank, the giant of which he became Deputy Chairman. It’s been a forty-year career of multi-billion dollar deals for a self-confessed “deals junkie”. Mark modestly attributes his rise to “a lot of good luck, being in the right place at the right time, having the right tools and the approaches of the time.” Tools and approaches including a Harvard education that Mark says were right for the 60s, 70s, 80s and 90s. But times have changed. “Until recently all the managing directors of Macquarie and its predecessor have been Harvard MBAs. It was right for the time.” Ask what’s right for today’s business environment and Mark’s answer is lightning quick: “Learning Chinese.” He’s joking, but then he explains. “I think the American business model is now severely tarnished and is much less relevant. So while I obviously feel that I got a very good applied education there, there are other things that are probably more relevant training now. I don’t know that there is a clear sense anywhere of quite what the answer is, but that sort of unbridled financialisation of the economy has shown itself to be risky and costly.”

Mark is currently the Chairman of the Federal Government initiative, the Australian Financial Centre Task Force, on the boards of Peat Group and Westfield and is a member of the ASIC External Advisory Panel, among other appointments. He has been richly influenced by his role as one of three Prime Ministerial appointees to the APEC Business Advisory Council, along with Corrs’ CEO John Denton. He has been appointed by three successive Prime Ministers during his eight years in the role and is passionate about free trade. He points to the success of the Australian financial services industry in this regard. “I think that if we have a very open and very competitive but well regulated market in Australia we will attract a certain amount of business because we enjoy essentially a common law legal framework and we have high quality support services in Australia, whether they be human or technical. We will not overcome our issues of small population, geographic separation from Asia and so on, but we will have a significant industry”. “Financial services is actually the single largest industrial group in the Australia GDP, it is just over 10% of GDP. So it will be a significant group and a significant part of the economy and if it does a good job in an open competitive fashion, that is good for all the consumers in Australia.”

“We have had bipartisan political support for the programme of reform in financial services that’s run over the last thirty years and we have all been beneficiaries of that. If I were being slightly flippant, I’d say we all ought to have a little niche for the past Prime Minister Saint Paul Keating and pay obeisance to him every day.”

The current Prime Minister probably wouldn’t disagree.
China can rise peacefully

One of the most important foreign policy issues facing Australia is the future relationship between the United States and China.

With the US as our most important ally, and China now our largest trading partner, any significant change to the relationship between the two must have implications for our future security and economic prosperity.

I believe the leaders of the US and China can forge a constructive and peaceful future, and that they are able to overcome the challenges that inevitably arise when two world powers seek to maximise their influence in a region. But I readily acknowledge that there are different views about this.

For example, Professor of Strategic Studies at ANU, Hugh White, in his recent Quarterly Essay and in The Australian, said that China’s rapid growth will, if it lasts, “reshape the way the world works”. He argued that if America fails to accommodate China’s rising power within Asia, there is the possibility of “hostility” between the two powers.

Earlier this year, Professor John Mearsheimer from the University of Chicago put it more forcefully. He said “China cannot rise peacefully” and that it is inevitable that “intense security competition” will arise between China and the US. This is because China, for security reasons, will want to be the dominant power in Asia and one way to achieve this would be to push the US out.

Australia has a vital interest in debating these issues to ensure that government and business are well informed when developing policies and actions that affect this area.

One reason I believe stability can be maintained is that China’s rise is built on a remarkable degree of economic integration with the US and its allies. The US is the most important export market for Chinese industry, buying 18 per cent of all Chinese merchandise exports. This is in contrast with the negligible levels of trade between the US and the former Soviet Union.

Between the early 1970s and the late 1980s, trade between the Soviet Union and the United States represented one per cent of total trade for each power. As a result, there was no significant economic counterweight to strategic tensions during the Cold War.

China has given no indication it will be expansionist like previous global powers who sought increased territorial control or influence. Beyond Taiwan and its current national boundaries, China has no history of seeking to engage in territorial expansion.

At the same time, China’s economic interests provide an incentive for the nation to remain on peaceful terms with major trading partners, even though one or more of them might be a rival power.

Despite these strong economic links, if a serious regional security issue arose China would, naturally, be expected to put political considerations before its economic interests. Therefore, Australia’s challenge must be to work with other nations to reduce the risk of this occurring.

China is also now engaging more broadly with the world. An important example is in the area of education. Last year 118,000 students from China studied in Australia and the number of Chinese students participating in international education in western nations continues to grow.

Policymakers in Australia and the US must be careful that strongly held views about how China might conduct itself in the future don’t become a self fulfilling prophecy. In other words, if the west develops policy only on the basis that China is expected to be a threat in the future, China may be justified in responding accordingly. This is the wrong approach.

We have a clear interest in developing and supporting policies that contribute to China’s ability to play a constructive and engaged role in the world. In seeking to meet this objective, we should give a higher priority to developing Australian “soft power”. This requires us to build deep and effective relationships. In the first instance, this needs to occur between governments by engaging China in multilateral and regional institutions, and at a bilateral level.

At the same time, there is an important role for business leaders, academics and other private sector organisations and individuals to contribute to our soft power efforts through engagement with our counterparts in China. Some examples are the recent Business Council of Australia’s Australia/China CEO Round Table event as well as activities linking business leaders from Australia and China in the G20 and in the APEC Business Advisory Council.

China can rise peacefully. There is a crucial role for government policy. The United States and its close allies, including Australia, need to be thoughtful and creative in using soft power to encourage a future in which China can play a constructive role as a global power.
Health Innovation:
Risk, reward and the value of patience

We take a close look at health innovation in Australia – what are the benefits, pitfalls and lessons we can learn?

It’s the hoary old chestnut: Australia has great scientists, ideas and research but a lack of money and commercialisation skills pushes our discoveries and people overseas. But is that really the case?

Michael Finney, who is charged with commercialising Queensland University of Technology’s innovations, says it’s only part of the picture.

Most science isn’t about those eureka moments. Much more common are small innovative steps that build on existing knowledge.

The CEO of qutbluebox says by far the majority of all innovations and technologies in Australia come from overseas.

Innovation is not just about inventions to benefit the Australian economy. “Given the fact that we currently produce less than 2% of the world’s patented outcomes, it’s also about training our workforce, conducting our research,” Finney says.

“Innovation is all about working out systems and processes; ways that we can absorb those technologies [from] overseas and those that we develop nationally.”

Finney maintains Australia needs “to have people properly trained at school, research infrastructure in places like universities, and national infrastructure like
The National Broadband Network. The NBN will "benefit our secondary and tertiary education sectors, enabling them to provide services to train people, to be more innovative and adopt new technologies that otherwise wouldn’t be the case," he says.

The Managing Director of medical device company, Impedimed, Greg Brown, says Australian scientists are second to none. "They're doing an excellent job with what they've got. Their work often goes under-funded which can lead to poor patent protection but the quality of invention is very much there. I’m like a child in a lolly shop – there are so many good opportunities here to commercialise," he says.

Brown, who has worked in Germany, the UK, Switzerland and the USA, says Australian companies often lack the appropriate access to funds and internationally experienced human resources to penetrate foreign markets. Citing the healthcare sector as an example, he says foreign markets can operate in a markedly different way from our own and need specific commercialisation skills and experience.

The disparity between Australia’s highly centralised health system and the US managed care market where "the healthcare system is actually paid for and managed by close to 800 different payers" is vast. "The US is a very decentralised payment system and each managed care company has the right to design their own delivery system. In fact, this is the very point on which they differentiate themselves – through better management models that show improved clinical outcomes for less cost."

The US system sometimes lacks continuity of care which can mean doubling up of tests and care and ultimately extra costs. "But it is quick to adopt newer technologies where there are clear clinical and cost benefits. In contrast, some of the centralised markets can put you through a ten to 15 year peer review process before you will see a change. As a result of the size and structure of the US healthcare system, it fuels most of the global commercial innovation and development of new technologies" Brown says.

Companies that have successfully introduced Australian technology to the American market – like Cochlear and Resmed – understand how market differences change the relative value of their products. "There are a lot of Australian expats out there, who have excellent commercial experience in the different international healthcare markets," he says. "It would be great to see a lot of that resource come home and leverage our home grown innovation but there are not many incentives to bring them home, especially from a remuneration and tax perspective. Access to funding compounds the human resource issue."

Brown says the other major problem is the disconnect between the relatively short life spans of funding in Australia and the time it takes to fully develop a product. While this is changing we still have some distance to go.

Corrs Chambers Westgarth partner, Eddie Scuderi, believes longer-term projects could provide opportunities for superannuation funds. "Because of the long gestation period that intellectual property has, from inception to development to commercialisation, you need long term investors."

"If you look at the people overseas they have a portfolio of products... some will win, some will lose. But over the full portfolio they will have some major successes."

"Many of our innovators are single-product process people. They haven’t got a portfolio of products under development. They can’t find the long term funding for the development of that one product so they have to go off shore and sell it to somebody else who can," Scuderi says. "If we could find a way of aggregating some of the inventors or innovation entities, so that they had a portfolio of products, they would be more attractive to funders."

Mel Bridges founded and has managed a number of Biotech companies, including Impedimed, over the past 30 years. He says if "half a percent or one percent of the superannuation funds in this country were to direct those investments into new technology it would change the face of this industry in this country."

Bridges says it’s frustrating that there is only a handful of financial analysts in Australia qualified to assess the market. "Australia punches above its weight as far as this whole area goes and I know a lot of Americans are absolutely flabbergasted at what some of the Australian companies have achieved in the innovation space with so little investment capital."

However, Bridges says, in the past decade investment funding of the sector has gone backwards.
Greg Brown says life sciences are a high-risk investment so investors need to be rewarded with higher returns.

“Once we start to see more successes, then we will start to build a certain confidence with investors in Australia, and I think they will become more long term in their outlook”.

“It’s very short term at this point but do you blame them? You can see a swing of 50 percent in value in a day on some of the biotech shares. It probably does well for very short trading and you can make money out of it. Unfortunately, though, we really need to be able to see some examples where companies are building value over time through solid commercialisation plans. As more successes emerge, like Resmed and Cochlear, the biotech market will better compete with mining for investors’ funds.” Brown says.

The current model of funding—“lots of small opportunities with a small amount of money”—provides less likelihood of success and becomes a self-fulfilling prophecy says Brown. “As more companies are under-funded, more failures impact on market confidence,” so Brown advocates more money going to fewer, more qualified projects.

He says the investment community should demand a minimum standard before business plans are considered. Plans should address IP position, regulatory strategy, health economics, reimbursement programs, distribution channels and clinical validation pathways. It should also provide an answer to whether the product is first to market and actually changing the existing care regime or is a better, improved product with a distribution partner going into an already established market.

Eddie Scuderi sees Australian strengths in innovations that address climate-change problems in the mining and energy sectors: like the potential development and export of clean coal technology and renewable energy sources. He says Australia also has competitive and educational advantages in engineering, information technology and biotechnology.

Mel Bridges says: “We just need to continue to deliver: bringing products to market and making the Europeans, the Americans and, to some extent the Japanese, aware of us,” Bridges says.

“That is starting to happen. We’ve seen, just in the last twelve months, significant interest from very, very large US funds – not only Impedimed but across the whole Australian sector.”

He says Australia has strengths in the development of high technology, which includes medical device and drug development, and is at the forefront of agricultural biotechnology.

There is a light bulb that’s been turned on in the U.S: that Australians are good at actually delivering on technology and bringing real products to market. They can be first in their class, and do it very cost effectively”.

Bridges says the global financial crisis helped increase American awareness of the sophistication of the stock exchange and fiscal management in the Australian investment market.

Bridges says: “This year I’ve noticed we’re starting to get the same sort of acknowledgment from Japan... so I’m more optimistic about this whole industry, in general, than I probably have been in the last 30 years.”
human trafficking is the modern-day form of slavery. Founder and crusader of Project Futures, a not for profit organisation working to raise awareness and end sex trafficking, Stephanie Lorenzo spoke to Corrs & Effect about what inspired her to act and how we can all help.

Each year an estimated 2.5 million people are kidnapped or lured from their homes by false promises of better lives.

Most are women and children. Many are vulnerable and powerless. Few will escape from the fastest-growing and second largest, criminal industry in the world today.

Human trafficking is the modern-day form of slavery. Its victims are forced to work – often in the sex trade – or are bonded to traffickers by debts they will never be able to repay.

The Council of Europe says the industry is growing like an epidemic, annually raking in an estimated US$42.5 billion.

In Australia, there are between 300 and 1000 cases each year.

But, on our doorstep, in South East Asia, the victims are counted in the hundreds of thousands – something that shocked a 22-year-old, Stephanie Lorenzo, when she read an autobiography in Cambodia three years ago.

The book’s author, Somaly Mam, was a Cambodian villager whose grandfather sold her into sexual slavery at age 12.

“I loved Cambodia, it’s a beautiful place”, Lorenzo says. “But it just struck me, walking around, the blatant exploitation of young women and men, right out on the streets for anyone to see.

“The book was harrowing and it stuck with me when I got back to Australia. I decided to do some further research into human trafficking and Somaly Mam”.

Stephanie learned how Somaly Mam survived a decade of abuse before a French aid worker helped her escape. And how in 2007, she launched the Somaly Mam Foundation to raise global awareness and take direct action against human traffickers.

Somaly had orchestrated raids on brothels and rescued sex workers, some as young as five and six years old. She’s helped build shelters, start schools, and save more than 4500 women and children in Cambodia, Thailand, Vietnam, and Laos.

Somaly was named one of Time magazine’s 100 Most Influential People of 2009 and featured as a CNN Hero.

“The more I read about her, the more I wanted to do something to help,” Stephanie says.

The first move was to set up a charity bike ride, in Cambodia, to raise money for the Somaly Mam Foundation.

“We ended up having 21 people join us for the ride, it was just amazing and we had thousands of requests for more information. We couldn’t believe this many people wanted to be involved,” Stephanie says.

“While we were over there, we got to...
meet Somaly Mam and other survivors of the sex industry that are housed in her shelters.

"It was a life changing experience for me. I started the bike ride thinking this was going to be a one-off good deed. But you meet her and you can’t just let that be it."

Stephanie’s drive to turn her good deed into a fully-fledged awareness campaign came to fruition in 2009 when she, and a dedicated team, launched the not-for-profit organisation, PROJECT FUTURES LTD.

Project Futures has raised over $160,000 for the Somaly Mam Foundation through the charity bike ride and other events.

All members of the Project Futures team are in their 20s, working in demanding, full-time jobs. Their enthusiasm and commitment inspires them to run the organisation, which is aimed at Generation Y, in their spare time.

“We don’t want our events to be just attended by Gen Y but we do target them because ultimately it’s our generation who is going to be shaping how we deal with these sorts of issues in the future and how we move the cause forward,” Stephanie says.

Project Futures wants to expand its fundraising to include corporate and philanthropic grants but, to do that, the organisation needs Deductible Gift Recipient status.

DGR status allows people to make tax-deductible donations. It also opens up the possibility of Project Futures being able to apply for grants from the many philanthropic funds that can only give to DGR entities.

However applying for DGR status is a difficult process that requires legal knowledge – something that led Project Futures to friend and supporter, Corrs lawyer, Nick Edwards.

Nick raised the matter with the Pro Bono team in Sydney, who decided the Project Futures team should apply to be listed on the Harm Prevention Register.

“The Harm Prevention Register was established to assist charitable institutions, whose principal activity is to promote the prevention of behavior that is harmful to humans. It helps them to obtain financial support from the community by providing a tax incentive mechanism for the community to donate to those charities.” Nick says.

“The problem we face in applying for Project Futures to be listed on this register is proving that human and sex trafficking is not just a problem that is limited to Asia. It happens on our own door step too. There are Australians committing these acts while travelling, but these crimes actually happen here too in our big cities and rural areas,” he says.

“Project Futures is all about raising awareness, letting people know about this crime and giving them an outlet to help, so hopefully our case will be air tight enough for us to be registered.”

DGR status will allow the Project Futures team to look for support from corporations and educational institutions.

The team wants to work with educational bodies to launch a scholarship program for the victims of human and sex trafficking. It will ask corporations to grant funds and help create business opportunities for victims who move to Australia.

“The Project Futures network just keeps growing so the more resources we have on board, the more we can achieve,” Stephanie says.

“At the end of the day our mission is to raise awareness about this serious and rapidly growing tragedy. So if we get through to our generation, who are the leaders of tomorrow, then the future may not be so bleak for so many men, women and children.”
As we prepare to say goodbye to the first ten years of the new millennium, we can reflect on a decade that had it all – from the rise of Facebook to the tailspin of the GFC, it’s been anything but boring.

What do you think have been Australia’s most significant moments during the last decade? Here is a snapshot of 20 defining events to get you started.

**The 2008-09 Global Financial Crisis** from which it seemed no one was immune.

Australia said “Sorry”, first in 2008 to our ‘Stolen Generation’ of Indigenous Australians and again in 2009, to the hundreds and thousands of ‘Forgotten Australians’ who suffered in state and church care.

**The 2002 Bali bombings** where 202 people were killed, including 88 Australians.

For the first time since it was floated in December 1983, the Australian dollar hit parity with the US dollar in October 2010.

**Flu epidemics** such as SARS, Avian Bird Flu and Swine Flu swept through the country and caused panic around the world.

**Mary MacKillop** became Australia’s first saint following her canonisation on October 17 2010 in Rome.

**Lleyton Hewitt** became the youngest number one ranked tennis player in the world by winning the US Open in 2001, Wimbledon in 2002 and back-to-back Tennis Masters Cup titles (2001 and 2002).

The deaths of Australian stars – **Dame Joan Sutherland**, **Steve Irwin** and **Heath Ledger**.

**Social media networks** such as Facebook, Twitter and MySpace took off and captured audiences around the world.

The terrorist attacks of **September 11, 2001** which killed nearly three thousand people and triggered the US invasions of Afghanistan and Iraq, and a global declaration of “war on terrorism”. The long term effects of the attacks are still being felt today, and will continue to shape the world for years to come.

**Extreme, erratic and wild weather** became the norm in Australia with long periods of drought, violent storms, freak snow and some of the hottest heatwaves in more than a century.

**The 2004 Indian Ocean earthquake and tsunami** killed more than 230,000 people in 14 countries and inundated coastal communities with waves up to 30 meters high. Though the waves did not reach Australia, we couldn’t help but be affected.

**HiH Insurance Group** collapsed in 2001, signalling the largest corporate collapse in Australia’s history.

**The deaths of Australian stars** – **Dame Joan Sutherland**, **Steve Irwin** and **Heath Ledger**.

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**Extreme, erratic and wild weather** became the norm in Australia with long periods of drought, violent storms, freak snow and some of the hottest heatwaves in more than a century.

**The 2008-09 Global Financial Crisis** from which it seemed no one was immune.

Australia said “Sorry”, first in 2008 to our ‘Stolen Generation’ of Indigenous Australians and again in 2009, to the hundreds and thousands of ‘Forgotten Australians’ who suffered in state and church care.

**The 2002 Bali bombings** where 202 people were killed, including 88 Australians.

For the first time since it was floated in December 1983, the Australian dollar hit parity with the US dollar in October 2010.

**Flu epidemics** such as SARS, Avian Bird Flu and Swine Flu swept through the country and caused panic around the world.

**Mary MacKillop** became Australia’s first saint following her canonisation on October 17 2010 in Rome.

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