

## NOTICE OF FILING

### Details of Filing

Document Lodged: Concise Statement  
Court of Filing: FEDERAL COURT OF AUSTRALIA (FCA)  
Date of Lodgment: 29/05/2026 8:00:02 AM AEST  
Date Accepted for Filing: 29/05/2026 9:56:53 AM AEST  
File Number: NSD905/2026  
File Title: AUSTRALIAN COMPETITION AND CONSUMER COMMISSION v  
AMAZON COMMERCIAL SERVICES PTY LTD ACN 616 935 623  
Registry: NEW SOUTH WALES REGISTRY - FEDERAL COURT OF AUSTRALIA



*Sia Lagos*

Registrar

### Important Information

This Notice has been inserted as the first page of the document which has been accepted for electronic filing. It is now taken to be part of that document for the purposes of the proceeding in the Court and contains important information for all parties to that proceeding. It must be included in the document served on each of those parties.

The date of the filing of the document is determined pursuant to the Court's Rules.



NCF1

## CONCISE STATEMENT

FEDERAL COURT OF AUSTRALIA  
DISTRICT REGISTRY: NEW SOUTH WALES  
DIVISION: GENERAL

NO NSD OF 2026

### AUSTRALIAN COMPETITION AND CONSUMER COMMISSION

Applicant

AMAZON COMMERCIAL SERVICES PTY LTD (ACN: 616  
935 623)

Respondent

#### A. INTRODUCTION

1. In this proceeding, the Australian Competition and Consumer Commission (**ACCC**), alleges that Amazon Commercial Services Pty Ltd (**Amazon AU**) contravened s 136(3) of the Australian Consumer Law (**ACL**) between 22 June 2022 and 1 November 2022 (**Relevant Period**) in respect of its possession and/or control of certain consumer goods which did not comply with section 8 of the *Consumer Goods (Products Containing Button/Coin Batteries) Information Standard 2020 (Information Standard)*.
2. The consumer goods were backpacks for children with an attached light-up unicorn plush toy which contained button batteries. Under s 8 of the Information Standard, such goods were required to contain prescribed warnings about the dangers of button batteries. The backpacks did not comply with that requirement.
3. A 'button battery' or a 'coin battery' (a **button battery**) is a small, single cell battery with a diameter greater than the battery's height. The Information Standard was introduced to reduce the risk of fatality and injury associated with the use of button batteries, which can cause severe injury and even death if swallowed, particularly for young children less than five years of age.

#### B. IMPORTANT FACTS GIVING RISE TO THE CLAIM

4. Amazon AU operates the website at [www.Amazon.com.au](http://www.Amazon.com.au) (**Amazon AU Online Marketplace**). Amazon AU supplies goods to consumers in Australia via the Amazon AU Online Marketplace. It also authorises or permits, and facilitates, third parties (**Third Party Sellers**) to offer for sale, and to sell, goods to consumers via the Amazon AU Online Marketplace for a fee.

---

Filed on behalf of the Applicant, Australian Competition and  
Consumer Commission

File ref: 24009024

Prepared by: Jane Healy

AGS lawyer within the meaning of s 551 of the *Judiciary Act*  
1903

Telephone: 02 625 37336

Lawyer's Email:

Jane.Healy@ags.gov.au

Address for Service:

The Australian Government Solicitor,  
Level 10, 60 Martin Place, Sydney, NSW 2000  
Jane.Healy@ags.gov.au

5. Amazon AU also offers an additional service to Third Party Sellers known as 'Fulfilment by Amazon' (**FBA**). Goods that have been registered for FBA services are shipped by Third Party Sellers to Amazon AU fulfilment centres in Australia where they are stored. Amazon AU then fulfils any orders for those goods by packing and shipping the goods stored at Amazon AU fulfilment centres to consumers in Australia. Under the FBA services, Amazon AU also provides customer services to manage customer enquiries, refunds, and returns for goods enrolled in the FBA services. Third Party Sellers pay Amazon AU fees for the provision of FBA services, including storage fees.
6. At all material times, Amazon AU had exclusive possession of its fulfilment centres and kept records of all Unicorn Backpacks (as defined in paragraph 8 below) received in its fulfilment centres and all Unicorn Backpacks that left a fulfilment centre.

***The supply of the Unicorn Backpack on Amazon AU Online Marketplace***

7. On 15 January 2021, a person known as 'Brokbridge' registered to become a Third Party Seller.
8. On 29 October 2021, Brokbridge listed a good referred to as a 'Unicorn Backpack' for sale on the Amazon AU Online Marketplace and registered it for FBA services. The Unicorn Backpack was assigned the Amazon Standard Identification Number B09KN7W7W3 (**Unicorn Backpack**).
9. From 19 November 2021, Amazon AU provided FBA services to Brokbridge for the Unicorn Backpack. In addition to the services identified in paragraph 5, Brokbridge also acquired optional FBA services in respect of the Unicorn Backpacks including barcode labelling.
10. The listing for the Unicorn Backpack was active on the Amazon AU Online Marketplace:
  - 10.1. from 29 October 2021 until 12 July 2022 (with the listing being removed after the ACCC contacted Amazon AU on 11 July 2022 to raise potential safety risks associated with the Unicorn Backpacks); and
  - 10.2. for a few hours on 20 October 2022. It was then removed from the Amazon AU Online Marketplace pending a sample 'bin check' of the inventory, which took place on 1 November 2022, at which time Amazon AU determined that the Unicorn Backpacks did not comply with the Information Standard. A 'bin check' is an internal Amazon AU reference to Amazon AU staff physically checking existing inventory stored at Amazon AU's fulfilment centres in Australia.
11. During the Relevant Period, all purchases of units of Unicorn Backpacks by consumers from the Amazon AU Online Marketplace were shipped by Amazon AU to addresses in Australia. Prior to shipment, each of those units was stored by Amazon AU at one or more of its fulfilment centres in Australia as part of its FBA services.
12. Amazon AU last shipped a Unicorn Backpack to a consumer on 22 July 2022, notwithstanding the ACCC's notification and the delisting by Amazon AU on 12 July 2022.

***The Unicorn Backpack did not comply with s 8 of the Information Standard***

13. On 22 June 2022, the Information Standard commenced. The Information Standard applies to most consumer goods containing a button battery, including the Unicorn Backpacks. Section 8 of the Information Standard relevantly provides that prescribed warnings are to be affixed to, attached to or included with the goods (depending on whether they are packaged).
14. During the Relevant Period, the Unicorn Backpacks were not accompanied by instructions and did not include warning labels as required by ss 8(4) or 8(5), and 8(6) and 8(7) of the Information Standard.
15. Accordingly, during the Relevant Period the Unicorn Backpacks stored by Amazon AU at its fulfilment centres did not comply with s 8 of the Information Standard.

***Amazon AU had possession and/or control of units of Unicorn Backpacks***

16. During the Relevant Period, Amazon AU had possession of each Unicorn Backpack stored at a fulfilment centre for the purposes of s 136(3) of the ACL, because Amazon AU had physical custody of each such unit or, alternatively, because of that custody and because Amazon AU knew the unit was being stored at its fulfilment centre (see paragraph 6 above).
17. During the Relevant Period, Amazon AU had control of each Unicorn Backpack stored at a fulfilment centre for the purposes of s 136(3) of the ACL, because Amazon AU had exclusive possession of those fulfilment centres and/or due to the rights granted to Amazon AU in respect of those goods under its services agreement with Brokbridge.

**C. SUMMARY OF RELIEF SOUGHT FROM THE COURT**

18. The Applicant seeks the relief sought in the accompanying originating application.

**D. PRIMARY LEGAL GROUNDS FOR RELIEF SOUGHT**

19. Section 136(3) of the ACL prohibits a person (which includes a corporation such as Amazon AU) from, in or for the purposes of trade or commerce, possessing or having control of goods the supply of which is prohibited because the information standard for goods of that kind has not been complied with.
20. For the purposes of s 136(3), for the reasons outlined in paragraphs 16 to 17, during the Relevant Period, Amazon AU had possession and/or control of each unit of the Unicorn Backpacks stored in one or more of its fulfilment centres, in or for the purposes of trade or commerce.
21. By reason of paragraphs 13 to 15 above, during the Relevant Period, Unicorn Backpacks stored by Amazon AU at one or more of its fulfilment centres were goods the supply of which is prohibited, as the Information Standard had not been complied with.
22. The Unicorn Backpacks were not intended to be used outside Australia.

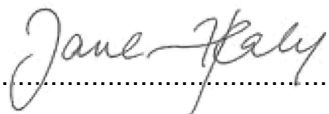
23. By reason of paragraphs 19 to 22 above, during the Relevant Period Amazon AU contravened s 136(3) in respect of each Unicorn Backpack stored at one of more of its fulfilment centres or, alternatively, in respect of the four Unicorn Backpacks purchased by the ACCC via the Amazon AU Online Marketplace on 6 July 2022 and the units subjected to a bin check by Amazon AU on 1 November 2022.

**E. ALLEGED HARM**

24. The purpose of the Information Standard is to reduce the risk of death or serious injury associated with button batteries, particularly to children.
25. The inclusion of safety information with products containing button batteries alerts consumers, especially parents and caregivers, to the presence of button batteries and the risks associated with such products, and provides guidance on seeking urgent medical attention to reduce the risk of serious or fatal injury.
26. Amazon AU's contraventions of s 136(3) in respect of its possession and/or control of Unicorn Backpacks that did not comply with s 8 of the Information Standard increased the risk of consumers receiving products containing button batteries without the prescribed warnings.

**F. OTHER**

27. The Applicant does not consider there are any issues which may be suitable for report by a referee under s 54A of the *Federal Court of Australia Act 1976* (Cth).

.....  


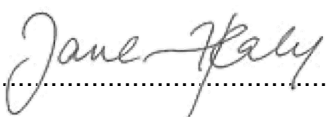
Jane Healy  
AGS lawyer  
for and on behalf of the Australian Government Solicitor  
Solicitor for the Applicant

This Concise Statement was prepared by Geoffrey Kozminsky and Gary Zhang of counsel.

**CERTIFICATE OF LAWYER**

I Jane Healy certify to the Court that, in relation to the statement of claim filed on behalf of the Applicant, the factual and legal material available to me at present provides a proper basis for each allegation in the pleading.

Date: 29 May 2026

  
.....

Jane Healy  
AGS lawyer  
for and on behalf of the Australian Government Solicitor  
Solicitor for the Applicant