

# Form C

Commonwealth of Australia

*Competition and Consumer Act 2010 — subsection 88 (5)*

## COVENANTS AFFECTING COMPETITION: APPLICATION FOR AUTHORISATION

To the Australian Competition and Consumer Commission:

Application is hereby made under subsection 88 (5) of the *Competition and Consumer Act 2010* for an authorisation under that subsection:

- to require the giving of, or to give, a covenant where the proposed covenant would have the purpose, or would have or might have the effect, of substantially lessening competition.
- to enforce the terms of a covenant.

*(Strike out whichever is not applicable)*

PLEASE FOLLOW DIRECTIONS ON BACK OF THIS FORM

### 1. Applicant

- (a) Name of Applicant:  
*(Refer to direction 2)*

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- (b) Description of business carried on by applicant:  
*(Refer to direction 3)*

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- (c) Address in Australia for service of documents on the applicant:

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## 2. Covenant

- (a) Description of the covenant and, where already given, its date:  
(Refer to direction 4)

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- (b) Names and addresses of persons who are, or are to be, entitled to the benefit of the covenant:

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- (c) Names and addresses of persons who are, or are to be bound by the covenant:

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- (d) The term for which authorisation of the covenant is being sought and grounds supporting this period of authorisation:

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## 3. Parties to the proposed covenant

- (a) Where those parties are known - names, addresses and descriptions of business carried on by those other parties on whose behalf the application is made:  
(Refer to direction 5)

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**4. Public benefit claims**

- (a) Arguments in support of application for authorisation:  
(Refer to direction 6)

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- (b) Facts and evidence relied upon in support of these claims:

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**5. Market definition**

Provide a description of the market(s) in which the covenant is to take effect having regard to goods or services supplied or acquired and other affected markets including: significant suppliers and acquirers; substitutes available for the relevant goods or services; any restriction on the supply or acquisition of the relevant goods or services (for example geographic or legal restrictions):  
(Refer to direction 7)

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**6. Public detriments**

- (a) Detriments to the public resulting or likely to result from the proposed covenant for which authorisation is sought, in particular the likely effect of the covenant on the prices of the goods or services and the prices of goods or services in other affected markets:  
(Refer to direction 8)

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- (b) Facts and evidence relevant to these detriments:

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**7. Covenants or proposed covenants in similar terms**

This application for authorisation may also be expressed to be made in relation to other covenants or proposed covenants that are or will be in similar terms to the abovementioned covenant.

- (a) Is this application to be so expressed?

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- (b) If so, the following information is to be furnished:

*(Refer to direction 9)*

- (i) Where the applicant is entitled to the benefit of other covenants, the names of the persons who are bound by each of the other covenants:

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- (ii) Where the applicant is to be entitled to the benefit of the other proposed covenants, the names of the persons who are to be bound by each of the other proposed covenants which names are known at the date of this application:

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- (iii) Where the applicant is bound by the other covenants, the names of the persons who are entitled to the benefit of each of the other covenants:

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- (iv) Where the applicant is to be bound by the other proposed covenants, the names of the persons who are to be entitled to the benefit of each of the other proposed covenants which names are known at the date of the application:

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## 8. Joint Ventures

- (a) Does this application deal with a matter relating to a joint venture (See section 4J of the *Competition and Consumer Act 2010*)?

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- (b) If so, are any other applications being made simultaneously with this application in relation to that joint venture?

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- (c) If so, by whom or on whose behalf are those other applications being made?

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## 9. Further information

- (a) Name, postal address and telephone contact details of the person authorised by the applicant seeking authorisation to provide additional information in relation to this application:

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Dated.....

Signed by/on behalf of the applicant

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(Signature)

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(Full Name)

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(Organisation)

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(Position in Organisation)

## **DIRECTIONS**

1. In lodging this form, applicants must include all information, including supporting evidence that they wish the Commission to take into account in assessing their application for authorisation.

Where there is insufficient space on this form to furnish the required information, the information is to be shown on separate sheets, numbered consecutively and signed by or on behalf of the applicant.

2. Where the application is made by or on behalf of a corporation, the name of the corporation is to be inserted in item 1 (a), not the name of the person signing the application and the application is to be signed by a person authorised by the corporation to do so.
3. Describe that part of the applicant's business relating to the subject matter of the covenant in respect of which authorisation is sought.
4. Provide details of the covenant affecting competition in respect of which the authorisation is sought.

In providing these details:

- (a) to the extent that any of the details have been reduced to writing — provide a true copy of the writing; and
  - (b) to the extent that any of the details have not been reduced to writing — provide a full and correct description of the particulars that have not been reduced to writing.
5. Where authorisation is sought on behalf of other parties provide details of each of those parties including names, addresses, descriptions of the business activities engaged in relating to the subject matter of the authorisation, and evidence of the party's consent to authorisation being sought on their behalf.
  6. Provide details of those public benefits claimed to result or to be likely to result from the proposed covenant including quantification of those benefits where possible.
  7. Provide details of the market(s) likely to be effected by the covenant, in particular having regard to goods or services that may be substitutes for the good or service that is the subject matter of the application for authorisation.
  8. Provide details of the detriments to the public, including those resulting from any lessening of competition, which may result from the proposed covenant. Provide quantification of those detriments where possible.
  9. Where the application is made also in respect of other covenants which are or will be in similar terms to the covenant referred to in item 2, furnish with the application details of the manner in which those covenants vary in their terms from the covenant referred to in item 2.