

25 August 2009

By email: Sarah.Sheppard@accc.gov.au;

Ms Sarah Sheppard
Australian Competition & Consumer
Commission
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Dear Sarah

CBH Access Undertaking: Further submission in relation to term and variation

This submission addresses the ACCC's comments in Part 6 of its draft decision (**Draft Decision**) regarding the term of, and variation to, CBH's proposed Undertaking.

CBH intends to amend its undertaking to address the comments and recommendations in the above referred Part of the Draft Decision.

1 Proposed application and negotiation clause

CBH proposes to replace section 4 of its undertaking with the new section 4 set out in **Annexure A** to this letter.

2 Reasons for amendments

CBH is proposing the amendments to section 4 to address the concerns raised by the ACCC, and specifically to:

- (i) Reduce the term to two years, in line with the ACCC's view in the Draft Decision;
- (ii) remove the unnecessary statements of indicative circumstances in which CBH can seek a variation to or withdrawal of the Undertaking, and instead rely on the relevant provisions of the *Trade Practices Act 1974* (Cth);
- (iii) similarly, remove the unnecessary prescription of circumstances in which CBH can seek an extension; and
- (iv) generally simplify the section.

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**CBH Access Undertaking: Further submission in relation
to term and variation**

CORRS
CHAMBERS
WESTGARTH
lawyers

We would be grateful if you would advise whether this proposed draft form of application and negotiation clause would be acceptable to the ACCC.

Yours sincerely



Bill Keane
Partner