



# Draft Determination

Application for revocation of A91396 and the substitution of  
authorisation AA1000432

lodged by

Mortgage and Finance Association of Australia

in respect of

the Mortgage and Finance Association of Australia Disciplinary Rules

Authorisation number: AA1000432

Date 10 December 2019

Commissioners: Keogh  
Rickard  
Ridgeway

## Summary

The ACCC proposes to grant authorisation to enable the Mortgage and Finance Association of Australia (MFAA) to continue to implement its Disciplinary Rules, for a further two years. The Disciplinary Rules enforce the MFAA's Code of Practice, which establishes standards of conduct and behaviour for MFAA members, who include mortgage and finance brokers, mortgage managers and aggregators. This conduct has been previously authorised since 2004 and was most recently re-authorised for 5 years in 2014.

Changes to the Disciplinary Rules since it was previously authorised include strengthening MFAA members' rights to appeal suspension and expulsion decisions and the power of the MFAA's tribunal in respect of enforcing the Disciplinary Rules.

The ACCC proposes to grant authorisation for two years, as requested by MFAA.

The ACCC considers the revised Disciplinary Rules are likely to result in public benefits from increasing consumer confidence and protection by enforcing compliance with a high standard of conduct beyond what is required by law. The ACCC considers the likely public detriments, including from any lessening of competition, are unlikely to arise from the proposed conduct as there are mechanisms in place to mitigate the risk of inappropriate expulsions or suspensions of MFAA members, who may compete with each other.

In April 2019, the ACCC granted interim authorisation to enable the MFAA to continue to enforce its existing Disciplinary Rules while the MFAA considered making further changes to its governance regime following the recommendations of the Royal Commission into Misconduct in the Banking, Superannuation and Financial Services Industry (the Royal Commission), several of which relate to the mortgage broking sector. The MFAA indicated it would need three to six months to make these changes.

The MFAA subsequently advised that this time frame was optimistic and in light of regulatory uncertainty and ongoing change in the industry, the MFAA is seeking authorisation for two years.

Interim authorisation remains in place until it is revoked or the ACCC's final determination is made.

The ACCC invites submissions in relation to this draft determination by 10 January 2020 before making its final decision.

## 1. The application for authorisation revocation and substitution

- 1.1. On 20 December 2018, the Mortgage and Finance Association of Australia (the **MFAA**) lodged an application to revoke authorisation A91396 and substitute authorisation AA1000432 for the one revoked (**re-authorisation**) with the Australian Competition and Consumer Commission (the **ACCC**). Initially, the MFAA sought re-authorisation for revised Disciplinary Rules governing member conduct for 10 years. This application for authorisation AA1000432 was made under subsection 91C(1) of the *Competition and Consumer Act 2010* (Cth) (the **Act**).
- 1.2. On 17 September 2019, the MFAA amended its application for re-authorisation by further revising the Disciplinary Rules (the **Disciplinary Rules**) and seeking authorisation for two years.

- 1.3. The Disciplinary Rules outline the processes for the investigation of complaints, expulsion of members and appeals against refused applications for membership or accreditation. In addition, there are rules for the MFAA Tribunal (the **MFAA Tribunal**) regarding its powers and operation. The MFAA Tribunal enforces the MFAA's Code of Practice, which establishes standards of conduct and behaviour for MFAA members.

(the **Conduct**).

- 1.4. MFAA submits that the changes to its Disciplinary Rules from earlier versions are of a technical and fine-tuning nature and do not affect the overall framework of the MFAA governance regime. Significant changes to the Disciplinary Rules include:
- a) Section 2.4.7 – allows a member who is the subject of an interim suspension order to refer the matter to the MFAA Tribunal Secretary within ten business days of the suspension order being made.
  - b) Section 2.4.9 – requires the MFAA Tribunal Secretary to notify the Chairman of the MFAA Tribunal of a referral under section 2.4.7 within five days of the referral and convene a tribunal meeting.
  - c) Section 2.4.10 – allows the member of the MFAA Tribunal that made a suspension order to revoke that suspension order should they no longer have reasonable grounds to suspect that the member engaged in misconduct, and the member has not referred the matter to the MFAA Tribunal under section 2.4.7.
  - d) Section 2.4.11 – allows the chairman or deputy chairman of the MFAA Tribunal to make further orders to finalise a suspension order, if that suspension order has not been referred to the MFAA Tribunal. These orders to finalise the matter must be endorsed by the member of the MFAA Tribunal that made the original suspension order and cannot be made within a period of one month from when the suspension order was made.
  - e) Section 3.5.2 – allows the MFAA Tribunal to cancel a member's MFAA membership, or make any other orders that the Tribunal considers appropriate, if the Tribunal has determined the member has engaged in misconduct.
- 1.5. The ACCC may grant authorisation which provides businesses with legal protection for arrangements that may otherwise risk breaching the law but are not harmful to competition and/or are likely to result in overall public benefits.

## The Applicant

- 1.6. The MFAA is a national body for professional mortgage and finance brokers, providing services and advocacy for its members with the aim of assisting them to develop, foster and promote the mortgage and finance industry. The MFAA has over 13,700 members, the majority of which are brokers, loan writers, lenders (bank and non-bank) and aggregators. Other members include associated professionals such as accountants, lawyers, sector support service providers and educators.
- 1.7. The MFAA's governance framework is in addition to (but does not supersede) the Australian Securities and Investments Commission's (**ASIC**) national credit licensing scheme and other regulations relevant to MFAA members.
- 1.8. In addition to the Disciplinary Rules, the MFAA governance regime also includes:
- a) the MFAA Constitution, which sets out the governance framework for the Association, and

- b) the MFAA Code of Practice, which outlines the standards to which MFAA members must adhere.

1.9. Re-authorisation is sought only for the revised Disciplinary Rules.

## Interim authorisation

- 1.10. On 11 April 2019, the ACCC suspended the operation of authorisation A91396 and granted interim authorisation under subsection 91(2) of the Act to enable the MFAA to continue to administer its existing Disciplinary Rules, while the MFAA considers making changes to its governance regime, which includes its Disciplinary Rules, following the recommendations of the Royal Commission, several of which relate to the mortgage broking sector.
- 1.11. Interim authorisation was necessary because authorisation of its existing Disciplinary Rules under A91396 was due to expire on 12 June 2019.
- 1.12. Interim authorisation will remain in place until the date the ACCC's final determination comes into effect or until interim authorisation is revoked.

## 2. Background

- 2.1. The ACCC has authorised previous versions of the MFAA's Disciplinary Rules for 5 year periods in 2004 (A90880), 2009 (A91118) and 2014 (A91396). In each case authorisation was not sought in respect of, and did not extend to, the MFAA's Code of Practice or the MFAA Constitution.
- 2.2. On 4 February 2019, the Royal Commission released its final report into Misconduct in the Banking, Superannuation and Financial Services Industry. A number of the recommendations are directly relevant to the MFAA and its members.
- 2.3. Therefore, on 31 March 2019, MFAA advised the ACCC that it would need six months to consider making further changes to its Disciplinary Rules and Code of Practice arising from Royal Commission recommendations. The MFAA also advised that subsequent legal or regulatory changes may impact on the MFAA's governance regime.
- 2.4. On 17 September 2019 the MFAA advised that as a result of ongoing change in the industry and regulatory uncertainty that may impact on the MFAA's governance regime, including draft legislation and ASIC guidelines on responsible lending, it would be unable to make the anticipated changes to its governance regime within the estimated six-month timeframe. The MFAA subsequently sought authorisation for its Disciplinary Rules, including the changes outlined at 1.4 above, for two years.
- 2.5. MFAA submits that should the various changes to law and guidelines be in effect during the term of the authorisation, the MFAA will approach the ACCC to encapsulate these into any authorisation.

## 3. Consultation

- 3.1. A public consultation process informs the ACCC's assessment of the likely public benefits and detriments from the Conduct.

- 3.2. The ACCC invited submissions from a range of potentially interested parties including providers of mortgage and financial services, other industry associations and state and federal government regulatory bodies.<sup>1</sup>
- 3.3. The ACCC received submissions from ASIC, the Finance Brokers Association of Australia (**FBAA**) and the MFAA on the initial revised Disciplinary Rules provided by the MFAA on 20 December 2018, and a further submission from the FBAA on the revised Disciplinary Rules received on 17 September 2019.
- 3.4. A brief summary of these submissions follows:
- a) *ASIC*: ASIC supports the authorisation of the MFAA's revised Disciplinary Rules generally, stating that the public benefits claimed during the authorisation A91396 process remain relevant. ASIC submits that the MFAA's revised Disciplinary Rules and overall governance regime provides public benefits by covering a wider range of credit products than current national legislation, and requiring a higher standard of professional conduct than other legislation. ASIC submits that details of disciplinary action undertaken by the MFAA, published on the MFAA website, allows the public to be more informed about the relevant financial services providers. ASIC also submits that, in light of the Royal Commission, there is potentially significant legislative change that may affect the Disciplinary Rules and, as such, authorisation for a period less than 10 years would be more appropriate.
  - b) *FBAA*: The ACCC received three submissions from the FBAA raising concerns with authorisation A1000432. The FBAA submits that the application for authorisation was legally deficient as it did not include the MFAA Constitution, which the FBAA submits "manifests the contract, arrangement or understanding" that is the subject of the authorisation. In addition, the FBAA submits that the Conduct has the potential to breach other sections of the Act. The FBAA submits that third-line forcing practices within the industry, whereby aggregators and sub-aggregators require that brokers must be a member of MFAA, have anti-competitive effects. The FBAA further submits that the MFAA's Disciplinary Rules exacerbate these effects. The FBAA does not support a 10 year authorisation period, initially suggesting five years but later two years, particularly given the numerous and significant changes expected in the industry.
  - c) *MFAA*: the MFAA responded to the views of the FBAA particularly that the authorisation application is legally deficient. The MFAA submits that it considers the Disciplinary Rules are the only part of the MFAA governance regime that may breach the Act, and then only to a limited extent. The ACCC considers that one or more provisions of Part IV of the Act would or might apply to the Conduct and that the application is not legally deficient for the reason submitted by FBAA. The ACCC notes that while the scope of the conduct for which MFAA is seeking authorisation is a matter for the MFAA, the Disciplinary Rules implement the governance regime and as such may constitute making or giving effect to a contract, arrangement or understanding within the meaning of Division 1 of Part IV of the Act or may substantially lessen competition within the meaning of section 45 of the CCA.
- 3.5. Public submissions by the Applicant and interested parties can be found on the Public Register for this matter.

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<sup>1</sup> A list of the parties consulted and the public submissions received is available from the ACCC's public register [www.accc.gov.au/authorisationsregister](http://www.accc.gov.au/authorisationsregister).

## 4. ACCC assessment

- 4.1. The ACCC's assessment of the Conduct is carried out in accordance with the relevant authorisation test contained in the Act.
- 4.2. The Applicant has sought re-authorisation for Conduct that would or might constitute a cartel provision within the meaning of Division 1 of Part IV of the Act and may substantially lessen competition within the meaning of section 45 of the Act. Consistent with subsection 90(7) and 90(8) of the Act<sup>2</sup>, the ACCC must not grant authorisation unless it is satisfied, in all the circumstances, that the conduct would result or be likely to result in a benefit to the public, and the benefit would outweigh the detriment to the public that would be likely to result (the **authorisation test**).
- 4.3. The ACCC notes that this assessment is on the basis of the revised Disciplinary Rules submitted on 17 September 2019.

### Relevant areas of Competition

- 4.4. To assess the likely effect of the Conduct, the ACCC will identify the relevant areas of competition likely to be impacted.
- 4.5. The MFAA submits that the relevant area of competition that may be affected by the authorisation is competition for the supply of mortgage brokering services.
- 4.6. The ACCC considers that it is not necessary to fully define the scope of the relevant markets for the purpose of this authorisation. The products and services offered by MFAA members vary substantially in type and function, and are not substitutable in all cases. MFAA members range from individual finance brokers to lenders, aggregators and insurers.
- 4.7. Consistent with its previous assessment in 2014, the ACCC has identified two areas of competition that may be affected by the authorisation:
  - the supply of mortgage retail services, and
  - the supply of professional membership services to mortgage brokers and credit providers.
- 4.8. The ACCC notes the FBAA's submission that the relevant area of competition should be a broader market for mortgage retail services, including mortgage retailing by banks, building societies and credit unions directly to consumers, as well as through mortgage brokers. The ACCC also notes the FBAA's submission that consideration should be given to other functional levels of the supply of mortgage related services, particularly in relation to loan aggregators and sub-aggregators.
- 4.9. The ACCC considers that its assessment is not substantively affected by consideration of a broader area of competition, or by the narrower area proposed by the Applicants.

### Future with and without the Conduct

- 4.10. In applying the authorisation test, the ACCC compares the likely future with the Conduct that is the subject of the authorisation to the likely future in which the Conduct does not occur.

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<sup>2</sup> See subsection 91C(7).



- 4.11. The ACCC considers that the likely future with the Conduct is the status quo, where the MFAA enforces and upholds its Code of Practice through its Disciplinary Rules.
- 4.12. The ACCC considers that without the Conduct the MFAA would be unlikely to enforce its Disciplinary Rules. Relevant laws and regulations would continue to apply,<sup>3</sup> however a lower standard of ethical and professional behaviour could be expected if the MFAA does not enforce its Disciplinary Rules.

## Public benefits

- 4.13. The Act does not define what constitutes a public benefit. The ACCC adopts a broad approach. This is consistent with the Australian Competition Tribunal (the **Tribunal**) which has stated that the term should be given its widest possible meaning, and includes:

*...anything of value to the community generally, any contribution to the aims pursued by society including as one of its principal elements ... the achievement of the economic goals of efficiency and progress.*<sup>4</sup>

- 4.14. The MFAA has submitted, and the ACCC has considered, the following public benefits:

- That the Conduct encourages compliance with a high standard of conduct, assisting MFAA members to act ethically and professionally, and
- That the standards imposed by the Conduct add to the ASIC regulatory regime.

## Increasing consumer confidence and protection by enforcing a high standard of conduct beyond what is required by law

- 4.15. The MFAA submits that the obligations contained within its governance regime require MFAA members to adhere to a standard of conduct that is beneficial for the MFAA members' customers and potential customers.

- 4.16. For example, the Code of Practice requires that a member:

- Must have qualifications or experience relevant to the functions to be performed and be a fit and proper person
- Maintain professional indemnity insurance, and
- Comply with practices standards including those relating to confidentiality, recommending appropriate finance, and disclosure of details relating to loans, including fees and commissions.

- 4.17. The MFAA submits that these obligations also have the benefit of adding further requirements on top of ASIC's regulatory regime. Examples of these additional obligations include:

- a higher threshold for loans by requiring a loan writer to only recommend loan products that are 'appropriate' for a consumer, in contrast the statutory obligation under the NCCPA which is not to provide a loan product that is 'unsuitable' for a consumer

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<sup>3</sup> The National Consumer Credit Protection Act 2009 and the National Credit Code that it contains regulate the provision of credit in Australia.

<sup>4</sup> Queensland Co-operative Milling Association Ltd (1976) ATPR 40-012 at 17,242; cited with approval in Re 7-Eleven Stores (1994) ATPR 41-357 at 42,677.

- the MFAA governance regime applies to all of its members, regardless of the products they offer. This is in contrast to the NCCPA and NCC, which only apply to certain types of credit products, to which there are a number of exemptions
- the MFAA's disciplinary regime requires the MFAA to act on any complaint (other than a contractual dispute) where the complainant provides evidence of misconduct. This requirement means that complaints are handled in a timely manner, in contrast to ASIC's enforcement process which the MFAA submits can be hindered by resourcing constraints.<sup>5</sup>

4.18. The ACCC considers that the MFAA governance regime requires MFAA members to adhere to a higher standard of professional and ethical conduct, above relevant obligations on MFAA members required under ASIC's regulatory regime, and that this higher standard provides a benefit to consumers of services offered by MFAA members.

4.19. The ACCC notes that, while these standards of conduct are prescribed in the MFAA's Code of Practice, the MFAA's governance regime is enforced by and, to some extent, relies upon the efficacy of the Disciplinary Rules. The MFAA submits that for a governance regime to be effective it must appropriately progress complaints and impose sanctions on those found to have breached the code, and that this is done through the Disciplinary Rules.

4.20. The MFAA submits its governance regime has been operating effectively for 15 years, during which time the MFAA Tribunal has considered over 500 matters. The MFAA's public register indicates that in total 82 members have had their membership either suspended (including current and past suspensions), cancelled or expelled since the register began in 2007.

4.21. The ACCC considers the publication of disciplinary decisions by the MFAA allows consumers to make more informed decisions when engaging mortgage broking services. In addition, that by actively enforcing a high standard of conduct by its members, this is likely to have further flow on benefits, such as providing consumers with confidence to seek financial services.

### **ACCC conclusion on public benefit**

4.22. For the reasons outlined, the ACCC considers that the Conduct is likely to result in public benefits by improving consumer protection by enforcing compliance with a higher standard of professional conduct than what is required by law.

### **Public detriments**

4.23. The Act does not define what constitutes a public detriment. The ACCC adopts a broad approach. This is consistent with the Tribunal which has defined it as:

*...any impairment to the community generally, any harm or damage to the aims pursued by the society including as one of its principal elements the achievement of the goal of economic efficiency.<sup>6</sup>*

4.24. The ACCC has considered the following potential public detriments:

- Lessening of competition for the supply of broker services.

<sup>5</sup> MFAA submits it also works in conjunction with ASIC in practice. It submit that it refers matters to ASIC where it suspends or expels a member and that ASIC refers matters to the MFAA where it is legally able to do so

<sup>6</sup> Re 7-Eleven Stores (1994) ATPR 41-357 at 42,683.



- Disciplinary Rules may be used for an anti-competitive purpose.
- 4.25. By agreeing to enforce the Disciplinary Rules mortgage brokers who would otherwise compete in the supply of mortgage broker services may engage in conduct which raises concerns under the cartel provision and/or section 45 of the Act. There is scope for the agreement to enforce the Disciplinary Rules by mortgage brokers to give rise to a public detriment if the rules are enforced inappropriately to exclude brokers for an anti-competitive purpose.

### **Lessening of competition for the supply of broker services**

- 4.26. Membership of the MFAA may provide an advantage to mortgage brokers over those who do not have membership, as membership indicates that a broker complies with a higher standard of conduct (as discussed in the public benefits section). The ACCC considers that there is potential for harm if members are inappropriately expelled or excluded from membership, as this affects their ability to compete with brokers who do have MFAA membership.
- 4.27. However, the ACCC considers that it is unlikely that the MFAA will use the Disciplinary Rules to inappropriately exclude brokers (or other service providers more broadly). Based on the information received, the ACCC has not found that the MFAA currently uses its powers to inappropriately exclude members.
- 4.28. The ACCC also considers that the Disciplinary Rules have appropriate mechanisms in place to mitigate the risk of inappropriate decisions. In particular, the ACCC notes that the Disciplinary Rules provide members with an avenue of appeal for any expulsion or suspension of their MFAA membership.
- 4.29. Further, the revised Disciplinary Rules contain no substantive changes that would suggest any significant increase in the number of disciplinary matters considered by the MFAA Tribunal. The ACCC considers the changes to the Disciplinary Rules, outlined at paragraph 1.4, will in fact result in greater procedural fairness for MFAA members by improving MFAA members' rights to appeal.
- 4.30. One of the most significant changes to the revised Disciplinary Rules is Section 2.4.7, which allows an MFAA member that is the subject of a suspension order to appeal this suspension order to the MFAA Tribunal (which consists of a chair and deputy chair who are not MFAA members). The ACCC considers that this will result in greater procedural fairness for MFAA members by ensuring that the suspension order has been made in accordance with the revised Disciplinary Rules, evidence of the relevant misconduct exists, and the MFAA member has the opportunity to make a case before the MFAA Tribunal.
- 4.31. The ACCC notes that there is harm for brokers who are expelled from the MFAA to the extent that they will no longer be able to as effectively compete with brokers who are members. While the ACCC accepts that there is potential for detriment as a result of disciplinary action, it considers that the benefit of the conduct outweighs this potential detriment. As noted above, the revised Disciplinary Rules improve members' ability to appeal decisions made by the MFAA Tribunal, mitigating this risk.

### **Disciplinary Rules may be used for an anti-competitive purpose**

- 4.32. The ACCC notes the FBAA's submission that the exclusion stemming from disciplinary action against MFAA members may hinder the excluded brokers' ability to effectively compete. The FBAA submits this is particularly relevant in circumstances where loan

aggregators require that brokers must obtain membership with the MFAA in order to engage with the aggregator for the provision of such services by the aggregator.

- 4.33. The ACCC notes that loan aggregators Aussie Home Loans, Mortgage Choice and Virgin Money have in the past lodged exclusive dealing notifications with the ACCC seeking legal protection for the requirement that their franchisees be members of the MFAA.<sup>7</sup>
- 4.34. However, the ACCC also notes that any potential conduct by loan aggregators to require MFAA membership as a condition of offering services to brokers is not the subject of this application. For the reasons outlined at 4.26-4.31 above, the ACCC considers there are sufficient mechanisms in place to reduce the risk of MFAA members being expelled inappropriately (including for anti-competitive purposes) and further mechanisms for members to appeal their suspension or expulsion.

### **ACCC conclusion on public detriment**

- 4.35. For the reasons outlined, the ACCC considers that the Conduct is unlikely to result in public detriments from a lessening of competition, in particular because there are appropriate mechanisms in place to mitigate the risk of inappropriate membership decisions by the MFAA, including an avenue for appeal for members who are expelled or suspended.

### **Balance of public benefit and detriment**

- 4.36. Therefore, for the reasons outlined in this draft determination, the ACCC is satisfied that the Conduct is likely to result in a public benefit and that this public benefit would outweigh any likely detriment to the public from the Conduct.

### **Length of authorisation**

- 4.37. The Act allows the ACCC to grant authorisation for a limited period of time.<sup>8</sup> This enables the ACCC to be in a position to be satisfied that the likely public benefits will outweigh the detriment for the period of authorisation. It also enables the ACCC to review the authorisation, and the public benefits and detriments that have resulted, after an appropriate period.
- 4.38. In this instance, the Applicant seeks re-authorisation for two years.<sup>9</sup>
- 4.39. The ACCC notes that the findings of the Royal Commission mean that regulatory reform in the financial services industry is likely in the short to medium term. Submissions from both the FBAA and ASIC in relation to the MFAA's initial request for a 10 year period of authorisation, suggest a shorter timeframe would be more appropriate for this reason. In the circumstances, the ACCC considers that a shorter period for authorisation is appropriate. The ACCC proposes to grant authorisation for two years.

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<sup>7</sup> Exclusive dealing notifications exist for AHL Investments Pty Ltd (Aussie Home Loans) N92787, Virgin Money Group N93142, and Mortgage Choice Limited N93329.

<sup>8</sup> Subsection 91(1)

<sup>9</sup> As discussed previously at, the Applicants have re

## 5. Draft determination

### The application

- 5.1. On 20 December 2018 the Applicant lodged an application to revoke authorisation A91396 and substitute authorisation AA1000432 for the one revoked (referred to as re-authorisation). This application for re-authorisation AA1000432 was made under subsection 91C(1) of the Act. The Applicant lodged an amended application on 17 September 2019 seeking authorisation for revised Disciplinary Rules for a two year period.
- 5.2. The Applicant seeks authorisation for the conduct described at paragraph 1.1 to 1.3. Subsection 90A(1) of the Act requires that before determining an application for authorisation, the ACCC shall prepare a draft determination.

### The authorisation test

- 5.3. Under subsections 90(7) and 90(8) of the Act, the ACCC must not grant authorisation unless it is satisfied in all the circumstances that the Conduct is likely to result in a benefit to the public and the benefit would outweigh the detriment to the public that would be likely to result from the Conduct.
- 5.4. For the reasons outlined in this draft determination, the ACCC is satisfied, in all the circumstances, that the Conduct would be likely to result in a benefit to the public and the benefit to the public would outweigh the detriment to the public that would result or be likely to result from the Conduct, including any lessening of competition.
- 5.5. Accordingly, the ACCC proposes to grant re-authorisation.

### Conduct which the ACCC proposes to authorise

- 5.6. The ACCC proposes to revoke authorisation A91396 and grant authorisation AA1000432 in substitution to enable the Applicant to enforce its Disciplinary Rules as described in paragraphs 1.1 to 1.3 and defined as the Conduct.
- 5.7. The Conduct may involve a cartel provision within the meaning of Division 1 of Part IV of the Act or may have the purpose or effect of substantially lessening competition within the meaning of section 45 of the Act.
- 5.8. The ACCC proposes to grant authorisation AA1000432 for two years.
- 5.9. This draft determination is made on 10 December 2019.

## 6. Next steps

- 6.1. The ACCC now invites submissions in response to this draft determination by 10 January 2019. In addition, consistent with section 90A of the Act, the applicant or an interested party may request that the ACCC hold a conference to discuss the draft determination.