



AUSTRALIAN
COMPETITION
& CONSUMER
COMMISSION

Our ref: AA1000450
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6 September 2019

Philippa Kelly
CEO
Large Format Retail Association

adjudication@accc.gov.au
www.accc.gov.au

By email: pkelly@lfra.com.au

Dear Ms Kelly

**Authorisation AA1000450 submitted by the Large Format Retail Association (LFRA)
– application in respect of exclusive dealing provisions**

I refer to our request for further information to the LFRA, sent on 16 August 2019, and the LFRA's letter in response, dated 23 August 2019.

The ACCC's letter dated 16 August requested further information concerning which aspects of the Proposed Conduct the LFRA believed are at risk of breaching the exclusive dealing provisions in section 47 of the Competition and Consumer Act (the Act). The LFRA responded that (our emphasis added):

The LFRA does not believe that any aspects of the Proposed Conduct are likely to contravene the exclusive dealing provisions of the Competition and Consumer Act 2010. The reference to exclusive dealing was included for completeness to ensure that, in the event that the ACCC considered that any aspect of the Proposed Conduct was at risk of contravening the exclusive dealing provisions, that the authorisation would be broad enough to cover such conduct.

As you are aware, authorisation is available for conduct which would or might breach specified provisions of the Act. An application for authorisation should identify the provisions of the Act that would or might apply to the Proposed Conduct.

We understand the LFRA has indicated that section 47 is *not* a provision of the Act that would or might apply to the Proposed Conduct. We also note that, based on the information provided by the LFRA regarding the Proposed Conduct, we have not identified a basis on which section 47 of the Act would or might apply to the Proposed Conduct.

Accordingly, we ask that the LFRA confirm it no longer seeks authorisation of the Proposed Conduct in relation to section 47.

If this confirmation is provided shortly, we will be able to progress with a timely draft determination and interim decision, in line with the provisional timeline previously discussed.

If you wish to discuss any aspect of this matter, please do not hesitate to contact Kaitlin Hanrahan on (03) 9290 1917 or kaitlin.hanrahan@accc.gov.au.

Yours sincerely

A handwritten signature in blue ink, appearing to read 'D. Hatfield', is positioned above the printed name.

David Hatfield
Director
Adjudication