



23 Marcus Clarke Street
Canberra ACT 2601

Our ref: AA1000457
Contact officer: Hayley Munro-Smith
Contact phone: 03 9910 9481

GPO Box 3131
Canberra ACT 2601
tel: (02) 6243 1111

20/11/2019

adjudication@acc.gov.au
www.acc.gov.au

By email

Dear Sir/Madam,

Co-Operative Supermarkets Australia Limited – application for authorisation AA1000457 — interested party consultation

The Australian Competition and Consumer Commission (the **ACCC**) is currently conducting a consultation process on an application for authorisation received from Co-Operative Supermarkets Australia Limited (**CSA**). CSA is an incorporated co-operative whose members operate independent supermarket and convenience stores.

CSA and its members (the **Applicants**) propose to collectively bargain with suppliers of goods and services to the Australian grocery industry.

The ACCC invites you to comment on the application. Further information about the authorisation process is provided in the ACCC's [Guidelines for authorisation of conduct \(non-merger\)](#). If you do not wish to make a submission, no further action is required from you.

Application for authorisation

The Applicants seek authorisation for five years to:

- Collectively bargain with suppliers of all kinds in the Australian grocery industry supply chain in the relation to the supply of goods or services that are either consumed by CSA members or offered for sale through the members business. This includes sharing of information by CSA members about price and conditions of supply offered to or existing with CSA members by suppliers.
- Impose and enforce an 'active member test', requiring members to actively trade in the goods and services offered through CSA's system during each rolling two-month period.

(the **Proposed Conduct**).

A full copy of the application for authorisation is available on the ACCC's [Authorisations Register](#).

Interim authorisation

The Applicants have also requested interim authorisation to engage in the Proposed Conduct, other than entering into contracts with suppliers. That is, the Applicants seek interim authorisation to negotiate with suppliers, but not to enter into contracts with suppliers.

If granted, interim authorisation would allow the Applicants to engage in this conduct while the ACCC is considering the substantive application.

The ACCC endeavours to deal with requests for interim authorisation quickly. In making an assessment as to whether it is appropriate to grant interim authorisation, the ACCC is not required to undertake a full assessment of the benefit and detriment likely to arise as a result of the proposed conduct.

The ACCC decides whether to grant interim authorisation on a case by case basis. Should an applicant request interim authorisation, the ACCC will usually consider a range of factors, including:

- harm to the applicant and other parties if interim is or is not granted,
- possible benefit and detriment to the public,
- the urgency of the matter, and
- whether the market would be able to return to substantially its pre-interim state if the ACCC should later deny authorisation.

Request for submissions

The ACCC invites you to make a submission on the likely public benefits and effect on competition, or any public detriment, from the proposed arrangements.

If you intend to provide a submission in relation to the substantive application for authorisation or interim authorisation, please do so by **06 December 2019**. Submissions should be emailed to adjudication@acc.gov.au with the subject 'AA1000457 – Co-Operative Supermarkets Australia Limited – submission'.

Alternatively, if you would like to provide comments orally, please contact Hayley Munro-Smith on 03 9910 9481 to organise a suitable time.

Submissions, including oral submissions, will be placed on the ACCC's public register subject to any request for exclusion. Please see the ACCC's publication [Guidelines for excluding confidential information from the public register for authorisation and notification processes](#).

If you do not wish to make a submission at this time, but would like to be informed of the progress of the application, please provide a nominated contact email address for future correspondence.

You can also forward this letter to any other party who may wish to make a submission to the ACCC regarding the application.

Timetable

The ACCC will progress its assessment of the application in a timely manner. An indicative timetable is set out below for your information

Indicative date	Stage in assessment process
05 November 2019	Lodgement of application and supporting submission.
20 November 2019	Public consultation process begins.
06 December 2019	Closing date for submissions from interested parties on interim authorisation and the substantive application.

December 2019	ACCC decision regarding interim authorisation.
January 2020	Draft determination.
February 2020	Public consultation on draft determination including any conference if called.
March 2020	Final determination.

This letter has been placed on the ACCC's public register. If you wish to discuss any aspect of this matter, please do not hesitate to contact Hayley Munro-Smith on 03 9910 9481 or via email to Hayley.Munro-Smith@acc.gov.au.

Yours sincerely



Gavin Jones
Director
Adjudication