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26/11/2020

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Mike Laing
Chief Executive Officer
Australian Retail Credit Association

Via email: [REDACTED]

Dear Mr Laing

ARCA application for re-authorisation — new submission

As discussed with David Hatfield earlier, it has come to our attention that, on 30 October 2020, a submission was received by the Australian Competition and Consumer Commission (the **ACCC**) in relation to ARCA's application for re-authorisation from Australian Privacy Foundation (**APF**). However, due to an issue with the ACCC's IT system, the submission was not seen at the time by staff or Commissioners.

As the ACCC is required by section 91C of the *Competition and Consumer Act 2010* to take into account all submissions received within the timeframe specified before making a final determination, and it did not do so here, the result is that reauthorisation will not come into effect on 11 December 2020, contrary to the advice we provided on 19 November 2020.

ARCA's existing authorisation A91482 therefore remains in force until 25 December 2020.

We are immediately taking the following steps to address this issue:

- The ACCC will remove the 19 November 2020 'determination' document from its register and publish a short explanation of what has occurred.
- The ACCC will provide you and other interested parties with a copy of the submission by APF, place the submission on our register, and invite any response (by you or others) by **Friday 4 December 2020**.
- The ACCC will take into account the APF submission and any responses received before making a decision whether to grant authorisation.

The ACCC will aim to make its determination in the week beginning **14 December 2020**. We note the following consequences of the decision date being extended:

- Since a new authorisation will not come into effect on 11 December 2020 as previously advised, ARCA will not have authorisation in respect of *revisions* to the specific provisions of the PRDE from that date, since those revisions were not included in the conduct authorised under the original authorisation (A91482), which will remain in place.
- When the ACCC makes its final determination in the week beginning **14 December 2020**, if it decides to grant authorisation it will consider granting interim authorisation at that time, which could include interim authorisation for the revised specific provisions of the PRDE, with immediate effect. To assist the ACCC's

consideration, can you please advise when ARCA intends to give effect to the revised PRDE.

The ACCC apologises for any inconvenience this has caused for ARCA and is moving to address the issue as quickly as it can while providing procedural fairness to all parties. I also wish to assure you that we have implemented new processes that will avoid any recurrence of this problem.

The ACCC will advise all other interested parties about the revised timeframe for its determination on ARCA's application.

This letter has been placed on the ACCC's public register. If you wish to discuss any aspect of this matter, please contact Jaime Martin on (03) 9290 1477, or via email at exemptions@acc.gov.au.

Yours sincerely

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

David Jones
Joint General Manager
Competition Exemptions