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Our ref: AA1000512

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25 May 2020

Dear Sir/Madam

National Retail Association – AA1000512 – interested party consultation

On 12 May 2020, the Australian Competition and Consumer Commission (the **ACCC**) received an application for authorisation from the National Retail Association, Australian Hotels Association, Franchise Council of Australia Limited, The Pharmacy Guild of Australia, Australian Newsagents' Federation Limited and the Australian Federation of Travel Agents Limited on behalf of their current and future members in Australia (**the Applicants**).

On 19 May 2020, the ACCC granted interim authorisation to allow the Applicants to engage in the conduct described below.

This letter invites your views on two main issues:

1. Firstly, if you have been directly impacted by the conduct under the interim authorisation, what is your experience to date.
2. Secondly, whether you have any comments on the likely public benefits and detriments from the proposed conduct, whether the ACCC should authorise the conduct for a further 12 months, and whether any conditions should be placed on the authorisation.

We are interested in hearing from you at any time during the ACCC's assessment process in relation to point 1. We request submissions in relation to point 2 by **Friday 5 June 2020**.

You are welcome to pass this letter on to others who may wish to make submissions.

The application for authorisation

The application has two aspects:

- The Applicants' tenant members seek authorisation to discuss, share information and collectively negotiate with landlords regarding the relief to be provided to retail tenants (**the Proposed Tenant Conduct**).
- The Applicants' landlord members seek authorisation to discuss and share information and make and give effect to agreements as to the nature of the relief to be offered to small and medium sized enterprise tenants by landlords (**the Proposed Landlord Conduct**).

Participation is voluntary - individual tenants and landlords may elect not to participate in the proposed conduct or decide to negotiate on an individual basis.

Authorisation does not extend to tenants or landlords discussing or exchanging the actual amount of rent payable or the amount of rent relief granted by landlords.

A full copy of the application for authorisation and the ACCC's Statement of Reasons in granting the interim authorisation is available on the ACCC's [authorisations public register](#).

Submissions

Submissions on the cooperation permitted by the interim authorisation

Submissions should focus on the effects of the cooperation by members of the Applicants permitted by the authorisation. Unilateral conduct by individual tenants or landlords is not the subject of the authorisation.

In particular, we seek your views on the following issues:

For members of the Applicants

1. Has the interim authorisation assisted your rent relief negotiations with tenants and/or landlords (as applicable)?

Questions for all tenants and landlords

2. Have you identified any negative effects due to the cooperation permitted by the interim authorisation?
3. Do you consider that the cooperation permitted by the interim authorisation could reduce competition beyond the end of the COVID-19 pandemic?
4. Should any changes be made to the interim authorisation?

We invite you to provide copies of documentary evidence of any of the above, if available.

The ACCC invites submissions on the cooperation permitted by the interim authorisation at any stage over the coming months.

Submissions for purposes of the draft determination

The ACCC will issue a draft determination setting out its preliminary views about the public benefits, effects on competition, and public detriments likely to result from the application for authorisation. Our focus will be on the potential for the authorisation to reduce competition beyond the end of the COVID-19 pandemic.

In order for your submissions to be taken into account in the draft determination please provide it at any time up until **Friday 5 June 2020**.

We recognise that the COVID-19 situation may be causing disruptions to your normal operations. You may wish to contact us by phone to discuss your views before this deadline.

How to make a submission

Please email your submission to adjudication@acc.gov.au, with the subject 'AA1000512 – National Retail Association – submission'. Please contact Will Sommers or Sam Strudwick-Day on the numbers below if you wish to provide comments by phone.

Your submission **will** be placed on the ACCC's [authorisations public register](#) unless we have approved a request (with reasons) for us to exclude part or all of the submission from the public register. (see [Guidelines for Excluding Information from the Public Register](#) for more information on how to make a request and how we assess requests).

This letter has been placed on the ACCC's public register. If you have any questions or wish to discuss any aspect of this matter, please do not hesitate to contact Will Sommers on (03) 9910 9444 or Sam Strudwick-Day on (02) 9230 9159.

Yours sincerely,

Kai Fu
Director
Adjudication Branch