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3/12/2020

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Dear Interested Party

Shopping Centre Council of Australia Limited application for re-authorisation of the Casual Mall Licensing Code of Practice AA1000529 – draft determination & interim authorisation

The Australian Competition and Consumer Commission (the **ACCC**) has issued a draft determination in respect of the application for re-authorisation lodged by the Shopping Centre Council of Australia Limited (**SCCA**) on 11 September 2020.

For the reasons set out in its draft determination, the ACCC proposes to grant authorisation for 10 years to enable the SCCA to give effect to the Casual Mall Licensing Code of Practice (the **Code**). The ACCC has previously authorised the Code several times beginning in 2007.

The Code is voluntary and aims to regulate the practice of casual mall licensing in shopping centres (also known as ‘pop-up’ retailing). The Code’s purpose is to ensure that casual mall licensing practices are fair to shopping centre owners and managers, shopping centre retailers and casual mall licensees. The Code prohibits provision of casual mall licences in certain circumstances where they might harm permanent shopping centre tenants.

The ACCC has also decided to grant interim authorisation to allow for continuity of the existing Code’s operation while the ACCC considers the substantive application for re-authorisation.

A copy of the ACCC’s draft determination and summary of its reasons is attached and available on the [ACCC Public Register](#).

Next steps

Once the ACCC issues a draft determination, the applicant or any interested party may make a written submission and/or request that the ACCC convene a ‘pre-decision conference’.

Making a submission

If you wish to make a submission in response to the ACCC’s draft determination, please lodge your submission by close of business **8 January 2021**. You should email submissions to exemptions@acc.gov.au with the subject ‘*Shopping Centre Council of Australia – AA1000529 – Submission*’.

The ACCC will consider any submissions it receives, including any oral submissions made should a pre-decision conference be called (see below), and will then release a final determination in relation to this application.

The ACCC will place any submissions, including a record of oral submissions, on the [ACCC Public Register](#) subject to any request for exclusion (see the [ACCC guidelines](#) for more information).

Optional pre-decision conference

In some cases, the applicant or an interested party requests that the ACCC convene a pre-decision conference in relation to the draft determination. If a conference is called in this matter, it will be open to the applicant and interested parties to attend and make oral submissions in relation to the draft determination. Conferences are conducted informally and while legal or professional advisers are able to attend, they are not entitled to participate in the discussion.

If you wish for the ACCC to hold a pre-decision conference in relation to the draft determination you must notify the ACCC in writing by **8 January 2021**. Any request for a conference should be emailed to exemptions@acc.gov.au.

We prefer to hold a conference in a way that enables attendees to attend in person. In the current circumstances, with the spread of COVID-19 and the need to significantly limit social contact, a face-to-face conference may not be possible. There may be options for the ACCC to hold a conference via webinar or teleconference. If you are considering requesting the ACCC hold a conference please contact us as early as possible to discuss the options for holding a conference before requesting one.

Timetable

The ACCC will progress its assessment of the application in a timely manner. An indicative timetable is set out below for your information. The ACCC will post an up to date version (including any changes) on the public register.

Indicative date	Stage in assessment process
11 September 2020	Lodgement of application and supporting submission.
23 September 2020	Public consultation process begins.
3 December 2020	Draft determination and decision regarding interim authorisation.
December / January 2021	Public consultation on draft determination including any conference if called.
February/March 2021	Final Determination

You may forward this letter to any other party who may wish to make a submission to the ACCC regarding the application. The ACCC will place this letter on the [ACCC Public Register](#).

If you wish to discuss any aspect of this matter please do not hesitate to contact Alex Reed on 02 6243 1364.

Yours sincerely

Handwritten signature in blue ink, consisting of the letters 'D' and 'C' with a period between them.

Danielle Staltari
Director
Competition Exemptions