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**MINISTERIAL  
 URGENT**

Ms Jennifer McNeill  
 Commissioner  
 Australian Competition and Consumer Commission  
 PO Box 1199  
 DICKSON ACT 2602

Dear Ms McNeill

Thank you for your letter of 6 November 2002 and the letter from Mr Bhojani of 25 October 2002, concerning the application of QBE Insurance (Australia) Limited, Allianz Australia Insurance Limited and NRMA Insurance Limited, to establish a public liability co-insurance panel for not-for-profit community groups.

It is clear that consideration of the application requires balancing the benefits of improved access and affordability of public liability insurance for not-for-profit organisations against the possible anti-competitive effects of the co-insurance arrangement.

There are public benefits in maintaining access to and affordability of public liability insurance to ensure the continued viability of not-for-profit organisations. These groups carry out important roles which serve a public benefit and are, in many instances, complementary to Government programs. There is a risk of increasing public burden if a number of these groups are no longer able to operate and/or a loss of social cohesion and community support.

It appears to be the case that general insurers are presently unwilling to provide insurance cover to many not-for-profit organizations. I can only speculate on why this might be the case, but if the situation persists there will be negative impacts on the community. If the proposed pool has the effect of making available to not-for-profit groups at reasonable prices insurance cover that would not otherwise be offered at such prices, it should be encouraged.

The potential anti-competitive effects are obvious. It should be possible, however, to monitor the operations of the pool and to ensure that not-for-profit groups are not exploited. If it can be demonstrated that providing insurance cover to these bodies at prices they can afford is a

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profitable undertaking, one presumes other insurers will respond and competition will return to the market.

I am in no position to judge whether a device such as the proposed pool is necessary in order for not-for-profit groups to obtain the insurance cover they need.

I am rather puzzled by the decision to confine the operations of the proposed pool to New South Wales and to make it conditional upon the passage of further reforms to the law of negligence by the New South Wales Parliament. South Australia has passed legislation to restrict damages awards (based on the South Australian compulsory third party motor vehicle compensation scheme) which I expect to be at least as effective in restraining insurance premiums as the New South Wales legislation.

In summary, I do not wish to oppose the application but I urge the ACCC to satisfy itself about the market facts which have given rise to the present situation and how those facts have changed in such a way as to justify three major national insurers selecting one State alone for the introduction of the pooling concept.

I thank you for providing me with the opportunity to put forward my views on this application.

Yours sincerely

  
Kevin Foley MP

**DEPUTY PREMIER**

**TREASURER**

**MINISTER FOR INDUSTRY AND INVESTMENT**

**MINISTER FOR FEDERAL/STATE RELATIONS**

