



Australian  
Competition &  
Consumer  
Commission

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Our Ref: C2005/407  
Contact Officer: Gavin Jones  
Contact Phone: 03 9290 1959

22 September 2005

sent to attached  
list 22/9/05

CJL

Dear

**Re: Mortgage Industry Association of Australia (MIAA) application for  
minor variation of authorisation A90880**

The Australian Competition and Consumer Commission (the ACCC) has issued a determination granting the application for minor variation to the above authorisation, with the exception of Rules 3.2.1, 4.7.1A, 4.7.3 and 4.8.3. The ACCC is not satisfied that the changes to these rules constitute minor variations. A copy of the ACCC's determination is attached.

Authorisation A90880 was granted by the ACCC on 18 February 2004, in relation to the MIAA's Disciplinary Rules which are part of the regime governing the conduct of its members. Essentially, these Disciplinary Rules enforce the MIAA's Code of Practice, which in turn outlines the standards that members have to adhere to and to which all MIAA members must agree to be bound.

Specifically, the Disciplinary Rules outline the process for investigation of complaints, expulsion of members and refused applications for membership and accreditation. In addition, they contain information about the MIAA Tribunal.

While the ACCC authorised the Disciplinary Rules, authorisation was not sought, or granted, for the MIAA's Code of Practice or other parts of its governance regime.

On 3 March 2005, the ACCC received an application for minor variation of authorisation A90880 from the MIAA. The MIAA sought to vary authorisation A90880 to reflect changes to its Disciplinary Rules since authorisation was originally granted.

*Summary of ACCC considerations*

Having considered the application and submissions from the MIAA and interested parties, the ACCC decided to grant the application for minor variation with the exception of Rules 3.2.1, 4.7.1A, 4.7.3 and 4.8.3.



Rules 3.2.1, 4.7.1A, 4.7.3 and 4.8.3. relate to:

- the introduction of the Board's discretion to hear appeals under the Constitution in relation to refused membership (Rule 3.2.1);
- the ability of the Board or State Council to act under the Constitution to suspend, censure or expel any Member regardless of the status or decision of an appeal to the Tribunal (Rule 4.7.1A);
- the introduction of new penalties (Rule 4.7.3); and
- the introduction of the Tribunal's ability to make retrospective decisions with respect to penalties (Rule 4.8.3).

With respect to each of these proposed variations, the ACCC considers that on balance, they are of sufficient substance and impact sufficiently upon affected parties so as to go beyond a minor variation.

With respect to the remainder of the proposed amendments to the MIAA's disciplinary rules, the ACCC is satisfied that they would not result, or be likely not to result, in a reduction in the benefit to the public that arose from the original authorisation.

Therefore, after considering all the information before it, the ACCC grants the application for minor variation to authorisation A90880 with the exception of Rules 3.2.1, 4.7.1A, 4.7.3 and 4.8.3.

*Application for review*

Pursuant to section 101 of the *Trade Practices Act 1974*, a person dissatisfied with this determination may apply to the Australian Competition Tribunal for its review. An application for review must be made within 21 days of the date of this determination; that is, on or before 12 October 2005. If no application to review is lodged by this date, the ACCC's determination will come into force on 13 October 2005.

This letter has been placed on the ACCC's public register. If you wish to discuss any aspect of this matter or would like a copy of the determination sent to you, please do not hesitate to contact me on 03 9290 1959.

Yours sincerely



Gavin Jones  
Director  
Adjudication Branch

|    | <b>Name</b>   | <b>Company</b>  | <b>Sal</b>     |
|----|---|---|----------------|
| 1. | Mr Bob Stanton<br>Chairman  | Council of Small Business<br>Organisations of Australia<br>PO Box E445<br>Kingston ACT 2604   | Mr Stanton     |
| 2. | Mr Chris Connolly<br>Director                                     | Financial Services Consumer Policy<br>Centre<br>Law Faculty<br>Rom 1212, Mathews Building<br>University of NSW 2052   | Mr Connolly    |
| 3. | Mr Gordon Renouf<br>Manager<br>Policy and<br>Campaigns            | Australian Consumers Association<br>57 Carrington Road<br>Marrickville NSW 2204   | Mr Renouf      |
| 4. | Ms Karen Cox<br>Manager   | Consumer Credit Legal Centre (NSW)<br>Inc<br>Level 1, 72-80 Cooper Street<br>SURRY HILLS NSW 2010   | Ms Cox         |
| 5. | Ms Su<br>Mahalingham<br>Director                                  | Consumer Credit Legal Service (WA)<br>8 <sup>th</sup> Floor, City Arcade Tower<br>207 Murray Street<br>PERTH WA 6000  | Ms Mahalingham |
| 6. | Ms Carolyn Bond<br>Chair  | Consumers Federation of Australia<br>C/- Consumer Credit Legal Service<br>Victoria<br>1 <sup>st</sup> Floor, 11-19 Bank Place<br>MELBOURNE VIC 3000           | Ms Bond        |
| 7. | Mr Richard<br>O'Sullivan<br>Commissioner of<br>Consumer Affairs   | Department of Justice<br>GPO Box 1722<br>Darwin NT 0801   | Mr O'Sullivan  |
| 8. | Mr Mark Bodycoat<br>Commissioner for<br>Consumer Affairs          | Office of Consumer and Business<br>Affairs<br>Attorney-General's Department<br>GPO Box 1719<br>Adelaide SA 5001   | Mr Bodycoat    |
| 9. | Mr Roy Ormerod<br>Director  | Office of Consumer Affairs and Fair<br>Trading<br>GPO Box 1244<br>Hobart TAS 7001   | Mr Ormerod     |
| 10 | Ms Elizabeth Kelly<br>Commissioner for<br>Fair Trading            | Department of Justice and Community<br>Safety<br>GPO Box 158<br>Canberra City ACT 2601  | Ms Kelly       |
| 11 | Dr David Cousins<br>Director                                      | Consumer Affairs Victoria<br>GPO Box 123A<br>Melbourne VIC 3001   | Dr Cousins     |
| 12 | Mr Matt Miller<br>Commissioner for<br>Fair Trading                | Department of Tourism, Racing and<br>Fair Trading<br>GPO Box 3111<br>Brisbane QLD 4000  | Mr Miller      |
| 13 | Mr Patrick Walker<br>Executive Director<br>Consumer<br>Protection | Department of Consumer and<br>Employment Protection<br>Locked Bag 14<br>Cloisters Square WA 6850  | Mr Walker      |
| 14 | Ms Jennifer<br>O'Donnell<br>Deputy Executive<br>Director          | Australian Securities and Investments<br>Commission<br>GPO Box 9827<br>SYDNEY NSW 2001<br>Australian Securities and Investments<br>Commission<br>GPO Box 9827 | Ms O'Donnell   |

|    |  |  |             |
|----|--|--|-------------|
|    |  | SYDNEY NSW 2001  |             |
| 15 | Dr John Laker<br>Chairman                              | Australian Prudential Regulation<br>Authority<br>GPO Box 9836<br>Sydney NSW 2001   | Dr Laker    |
| 16 | Mr David Bell<br>Chief Executive<br>Officer            | Australian Bankers' Association<br>Level 3<br>56 Pitt Street<br>Sydney NSW 2000  | Mr Bell     |
| 17 | Mr Richard Gilbert<br>Chief Executive<br>Officer       | Investments and Financial Services<br>Association Ltd<br>Level 24<br>44 Market St<br>Sydney NSW 2002                               | Mr Gilbert  |
| 18 | Mr Steve French<br>General Manager                     | Competition and Consumer Policy<br>Division<br>Department of the Treasury<br>Langton Crescent<br>Parkes ACT 2600                   | Mr French   |
| 19 | Ms Sue Weston<br>General Manager                       | The Office of Small Business<br>Commonwealth Department of<br>Industry, Tourism and Resources<br>GPO Box 9839<br>Canberra ACT 2600 | Ms Weston   |
| 20 | Mr Jim Easton<br>National President                    | Finance Brokers Association of<br>Australia Ltd<br>PO Box 1026<br>Spring Hill Qld 4004   | Mr Easton   |
| 21 | The Managing<br>Director<br>Mortgage Choice<br>Limited | Lvl 7, 182 -186 Blues Point Rd<br>North Sydney 2060 NSW  | Sir/Madam   |
| 22 | Mr Michael Tucker<br>General Counsel<br>and Secretary  | Chief Executive Officer<br>St George Bank<br>PO Box R221<br>Royal Exchange NSW 1225  | Mr Tucker   |
| 23 | The Manager  | Australian Credit Union Network<br>GPO Box 4720<br>Sydney NSW 2001   | Sir/Madam   |
| 24 | Mr James Larkey<br>Executive Officer                   | Australian Association of Permanent<br>Building Societies<br>PO Box 9021<br>16 Thesiger Court<br>Deakin ACT 2600                   | Mr Larkey   |
| 25 | Ms Doreen<br>Theseira<br>General Auditor               | Aussie Home Loans<br>Locked Bag 19<br>Royal Exchange NSW 1225  | Ms Theseira |
| 26 | Mr David O'Connor<br>Commissioner for<br>Fair Trading  | Office of Fair Trading<br>PO Box 972<br>PARRAMATTA NSW 2124  | Mr O'Connor |