



**Australian  
Competition &  
Consumer  
Commission**

Our Ref: C2004/763-06  
Contact Officer: Gavin Jones  
Contact Phone: 03 9290 1959

GPO Box 520J  
Melbourne VIC 3001

Level 35 The Tower  
360 Elizabeth Street  
Melbourne VIC 3000

ph (03) 9290 1800  
fax (03) 9663 3699

[www.accc.gov.au](http://www.accc.gov.au)

23 September 2005

Ms Kate Haddock  
Partner  
Banki Haddock Fiora  
Level 10, 179 Elizabeth Street  
SYDNEY NSW 2000

**By facsimile 02 9266 3455**

Dear Ms Haddock

**Re: Australasian Performing Right Association (APRA) applications for authorisation<sup>1</sup>  
- PRE-DECISION CONFERENCE**

The Cinema Operators<sup>2</sup> have requested that the Australian Competition & Consumer Commission (the ACCC) convene a conference in relation to the draft determination issued by the ACCC on 31 August 2005, proposing to grant authorisation to the above listed applications for authorisation.

A pre-determination conference provides a valuable opportunity for applicants and interested parties to make oral submissions to the ACCC about its draft determination.

The ACCC will hold the conference on **13 October 2005**, at:

The Marra Room  
Level 2  
Grace Hotel  
77 York Street, Sydney

---

<sup>1</sup> Authorisation application numbers A90918, A90919, A90921, A90922, A90924, A90925, A90944 & A90945.

<sup>2</sup> Village Cinemas Australia, The Greater Union Organisation, Birch, Carroll & Coyle, Reading Entertainment Australia, Australian Multiplex Cinemas, Hoyts Cinemas, Cinema Operators Association of Australia and Australian Entertainment Industry Association.



The conference will commence at **10am**. ACCC Commissioner Stephen King will chair the conference.

Under the *Trade Practices Act 1974* (TPA), the conference may be attended by the applicant and other interested parties. Please advise the ACCC of the names of APRA's representatives who will be attending and their position titles, and indicate who will be APRA's chief spokesperson. Please provide this information by **cob Monday 10 October 2005**. You may address this information to:

The General Manager  
Adjudication Branch  
Australian Competition and Consumer Commission  
PO Box 1199  
DICKSON ACT 2602

You can also notify the ACCC by e-mail to [adjudication@acc.gov.au](mailto:adjudication@acc.gov.au) or by facsimile on 02 6243 1211.


I would also note that, while conference participants may bring outside legal or other professional advisers to assist them, the TPA prohibits these advisers from participating in conference discussions.

Attached for your information are procedures usually followed at pre-decision conferences.

In its letter of 31 August 2005, advising of its draft decision in respect of APRA's applications for authorisation, the ACCC requested that any written submissions in response to its draft determination be lodged by 30 September 2005. In light of the request for a pre-decision conference in relation to the draft determination the period for written submission to be lodged has been extended by one week, until **7 October 2005**.

A copy of this letter has been placed on the ACCC's public register. If you require any further information in regard to the conference, please do not hesitate to contact Gavin Jones on 03 9290 1959.

Yours sincerely

  
Scott Gregson  
A/g General Manager  
Adjudication Branch

**AN OUTLINE OF THE PROCEDURES**  
**USUALLY FOLLOWED AT PRE-DETERMINATION CONFERENCES**

The Australian Competition and Consumer Commission (the ACCC) tries to conduct such conferences as informally, flexibly and speedily as possible. Where necessary a conference may be adjourned and reconvened at a later time.

An interested party attending a conference may have the assistance of outside legal or other professional advisers. Although such persons may attend the conference to assist; they are not entitled to participate in the discussion.

The conference will serve a useful purpose in that it gives the ACCC and all interested parties the opportunity to meet face-to-face to discuss the operation and effect of the applicant's conduct and the ACCC's draft determination. The applicant and/or interested persons has/have the opportunity to persuade the ACCC to accept their view. The ACCC benefits from direct contact with the parties, and its perceptions of public benefit and competition are tested in a forum of interested parties where points are often quickly and forcefully made.

**1. Preliminary procedures**

- (a) When you arrive at the conference you will find that a seating plan may be available. You should identify yourself to the ACCC staff before the conference begins and indicate clearly if you expect messages to be left for you during the conference. Further, please complete the attendance book when arriving at the conference. This assists ACCC staff to identify attendees for the purpose of recording the discussion.
- (b) The Chair (a Commissioner) will open the conference by welcoming those present and outlining the requirements of the Trade Practices Act and the manner in which the conference will be conducted. An agenda may be circulated.
- (c) If you intend to present a written comment (and you are encouraged to do so), it is helpful if the ACCC receives it before the conference date. It can then be copied and distributed at the conference. In this way, both the ACCC and other parties present are assisted, and your submission also forms part of the conference record. If you cannot complete the written submission earlier, it is helpful if you come to the conference with extra copies which can be distributed.
- (d) If you intend to present a submission at the conference and you wish it (or certain details in it) to remain confidential, you should make your confidentiality request to the Chair at the time of presenting the document, and you should state in general terms the reason for your request. The Chair may request other parties present to leave the conference for a short period, so that you may be given the opportunity, if necessary to expand on your reasons.

If your request for the document (or parts of it) to remain confidential is denied you may ask for the document (or parts of it) to be returned to you. Any material returned to you will ordinarily not be taken into consideration by the ACCC in making its final decision (unless, of course, it was supplied from another source).

Any document you present without making any request for confidentiality will be placed on the ACCC's public register, and the information it contains may be used by the ACCC in making its decision. Where confidentiality is granted, the confidential information may also be taken into account, although such material will not be placed on the public register.

## **2. General procedures**

- (a) The conference has been convened to discuss the draft determination, to canvass points of view and to assist the ACCC's weighing of issues and its interpretation of the information given to it.
- (b) The procedure is discretionary. The Chair controls the order of discussion, and may take particular topics separately, so that all the discussion, on any given topic may be heard at the one time.
- (c) The conference is not a court, and there is no right of cross-examination. You may request the Chair to ask questions of other parties present, but the Chair retains the discretion as to whether your questions will be put. The Chair, of course, may also directly question the parties at the conference, and they have discretion whether or not to answer.
- (d) ACCC staff present will make a record of the discussion. This will be in minute form, not a verbatim record. The conference record is placed on the public register, and all who attend the conference will receive a copy.
- (e) When the Chair believes that all present have been given a reasonable opportunity to express their views, he/she may terminate the conference.
- (f) The Chair (and any other Commissioner at the conference) cannot give a final decision at the close of the conference. Each Commissioner is only a representative of the ACCC and is required to report back to the ACCC, which will make the final decision.

## **3. Other matters**

- (a) Following the pre-determination conference, the ACCC will review its draft determination in the light of discussion and further submissions made at the conference (or within a set period of time after the conference), and will publish its final determination as soon as possible thereafter.
-