



**Australian
Competition &
Consumer
Commission**

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Our Ref: C2005/1672
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8 November 2005

Mr David Micó
Senior Policy Manager
Investment & Financial Services Association
Level 2
44 Market Street
Sydney NSW 2000

Dear David

Request for interim authorisation - Application for revocation and substitution of Authorisations (A90986 & A90989) lodged by the Investment & Financial Services Association ("IFSA") -

The Australian Competition and Consumer Commission ("the ACCC") has considered the request for interim authorisation in relation to the above applications for revocation and substitution of authorisations lodged by IFSA on 4 October 2005.

As you are aware, interim authorisation protects the arrangements for which authorisation is sought from legal action under the relevant provisions of the *Trade Practices Act 1974* while the ACCC considers and evaluates the merits of the application.

Based on the information provided and the submissions received from interested parties, the ACCC has decided to grant interim authorisation for Clause 10.1 and 10.3 of IFSA Standard No 11.00 ("the Standard"), until the ACCC issues a determination in this matter (unless circumstances warrant revocation or amendment of the interim authorisation at an earlier stage).

Clause 10.1 and 10.3 the Standard provide for an agreement between IFSA members that they will not require applicants to undergo genetic tests and will not induce applicants to undergo such testing by offering insurance at a lower than standard insurance premium.

In assessing the request for interim authorisation the ACCC considered that:

- the conduct has been occurring for an extended period of time, and granting interim authorisation will merely maintain the status quo



- denial of interim authorisations may cause market place disruptions and changes in the dynamics of the market
- denial of interim authorisation may unfairly disadvantage individuals who are coerced into obtaining genetic tests in the interim period, if authorisation were later to be granted to the conduct. This could occur if the denial of interim authorisation results in IFSA members changing their policy regarding genetic testing.

You should be aware that the ACCC's decision in relation to interim authorisation should not be taken as an indication that the ACCC would make a similar decision in its final determination.

Next steps

For your information, the next step in the process is for the ACCC to release a draft determination which will take into account of any submissions from IFSA and interested parties and will indicate the ACCC's preliminary views on the merits of the application. The ACCC will provide both IFSA and interested parties with the opportunity to provide a further submission on the draft determination before the ACCC issues its final decision.

This letter has been placed on the ACCC's public register. If you wish to discuss any aspect of this matter, please do not hesitate to contact Shashi Sivayoganathan on (03) 9290 1832.

Yours sincerely



Scott Gregson
General Manager
Adjudication Branch