

24 February 2006

Mr Scott Gregson
General Manager
Adjudication Branch
Australian Competition and
Consumer Commission
PO Box 1199
DICKSON 2602
ACT

Dear Mr Gregson,

**Investment and Financial Services Association (IFSA) applications for
revocation and substitution of authorisations – draft determination**

Thank you for the opportunity to have further input at this stage of the ACCC draft determination in respect of IFSA's application for revocation and substitution.

I fully endorse the decision of the ACCC, as outlined in the draft determination, to grant authorisations in respect of the key clauses of IFSA's Genetic Testing Policy. In particular, I agree with the ACCC's assessment that whilst recognising some anti-competitive detriment stemming from the IFSA Genetic Testing Policy, there will be net benefit to the public from allowing this standard to continue in operation.

I note that the draft determination proposes that authorisations be granted for a period of five years. This extended time period is, in my view, entirely appropriate. This should give adequate time for the recommendations of the ALRC/AHEC Inquiry to be implemented and ensures some degree of certainty in relation to the currency and status of the authorisations. This approach is, in my opinion, far preferable to leaving the time-frame more open-ended based on criteria which may be difficult to measure (eg on implementation of recommendations but what if there was implementation of some but not all the recommendations?)

It is significant that the draft determination explicitly makes provision for the ACCC to be proactive and seek review of the authorisations at an earlier time pursuant to s

91B of the *Trade Practices Act 1974* (Cth) in the event that the Government passes legislation which constitutes a material change of circumstances or otherwise changes its policy. This would appear to be a useful safeguard to the granting of an extended (5 year) period ensuring that the continued appropriateness of the standard applying is objectively assessed and where necessary can be reviewed if there is a material change of circumstance. This would seem to be the optimal way to proceed in what is potentially a dynamic environment, particularly now as the Human Genetics Advisory Committee has commenced its operation and may see fit to make its own recommendations for change.

Thank you again for the opportunity to have input into this important process. I look forward to receiving further advice in relation to the final outcome of this determination.

Yours faithfully,

Professor Margaret Otlowski
Deputy Director
Center for Law and Genetics
Faculty of Law
University of Tasmania