



Our reference: 2005-0381-01djb  
Your reference: C2005/1672

Mr Gavin Jones  
Director, Adjudication Branch  
Australian Competition and Consumer Commission  
GPO Box 520  
Melbourne Vic 3001

Dear Mr Jones

**Re: Investment and Financial Services Association (IFSA) applications for revocation and substitution of authorisations - draft determinations**

Thank you for your letter of 2 February 2006 regarding the above applications. We welcome the opportunity to comment on IFSA's request to the Australian Competition and Consumer Commission (ACCC) for re-authorisation of clauses 10.1 and 10.3 of its Genetic Testing Policy.

I refer to previous correspondence in August 2000, January 2003 and 24 October 2003, in which the Office of the Privacy Commissioner (the Office) supported both the original application by IFSA and the substitute authorisation.

As you are aware, the Office addressed the issue of genetic testing for insurance purposes in our March 2002 submission to the Australian Law Reform Commission and Australian Health Ethics Committee (ALRC/AHEC) Inquiry into the Protection of Human Genetic Information, which can be found on our website.<sup>1</sup>

We note the government responded in December 2005 to the ALRC/AHEC Report *Essentially Yours: The Protection of Human Genetic Information in Australia* ('*Essentially Yours*'). Its response includes the establishment of the Australian Human Genetics Advisory Committee (AHGAC) as an independent expert advisory committee. AHGAC is to play a role in the implementation of the recommendations in Chapters 26 and 27 of *Essentially Yours* relating to genetic testing and the insurance industry.

**The draft determinations**

The Office has supported the view that the previous determinations in IFSA's favour have been in the public interest, since, as we understand it, as a result of IFSA's Genetic Testing Policy, applicants for life insurance will not be compelled to provide their genetic information to obtain cover. It is also understood that there are no grounds to suggest that there will be any significant change to these circumstances in the foreseeable future.

We agree that it would be in the public interest to maintain the status quo to allow AHGAC to consider the relevant issues arising out of the recommendations of *Essentially Yours*. Further, there would appear to be no risk to the public interest in extending the term of the grant of authorisation from two to five years as proposed by the ACCC.

<sup>1</sup> [www.privacy.gov.au/publications/genesub.doc](http://www.privacy.gov.au/publications/genesub.doc)

FILE N  
DOC  
MARS

In the circumstances, it seems appropriate that re-authorisation for five years should be granted. The Office does not wish to participate in a 'pre-decision' conference nor to make any other submission.

If you have any enquiries as regards this matter, please contact Douglas Barry, Policy Advisor, on (02) 9284-9740 or at [douglasbarry@privacy.gov.au](mailto:douglasbarry@privacy.gov.au).

Yours sincerely

A handwritten signature in cursive script that reads "Andrew Solomon".

Andrew Solomon  
Director, Policy.

28 February 2006