



**Australian
Competition &
Consumer
Commission**

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29 June 2006

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Dear

**Australian Direct Marketing Association - Application for revocation of authorisation
A40077 and replacement by substitute authorisation A90876**

The Australian Competition and Consumer Commission (ACCC) has today issued a determination granting the Australian Direct Marketing Association's (ADMA's) application to revoke authorisation A40077 and substitute it with authorisation A90876.

Authorisation A40077 relates to ADMA's Direct Marketing Code of Practice which was authorised by the ACCC in 1999 (the 1999 Code). ADMA initially sought substitute authorisation to replace the 1999 Code with an updated code in July 2003. Following a series of amendments in 2004 and 2005 the ACCC has granted authorisation to ADMA's 2006 Direct Marketing Code of Practice (the 2006 Code).

The ACCC has granted authorisation, subject to a number of conditions, for a period of three years.

Summary of ACCC considerations

The ACCC concluded that ADMA's 2006 Code, and in particular the 'do not contact' services and its complaints handling requirements, may generate some public benefits. However, the ACCC was concerned that the review provisions contained in the 2006 Code may not be sufficient to keep it up to date with legislative developments.

The ACCC considered that, were the 2006 Code not to reflect legislative requirements, there was some potential for users of the 2006 Code to be misled about their legislated rights and responsibilities, a situation which may diminish the accepted benefits.



On balance, the ACCC could not be satisfied that the benefits of the 2006 Code would be likely to outweigh the detriments to the public constituted by any lessening of competition. However, the ACCC considered that this imbalance could be addressed through the imposition of conditions.

Consequently, the ACCC has granted authorisation to ADMA's 2006 Code on condition that ADMA conduct an independent review of its Direct Marketing Code of Practice annually and report its findings to the ACCC.

A copy of the determination, which includes the 2006 Code and the conditions in full, is enclosed for your information. The determination is also available on the ACCC's website at: www.accc.gov.au.

Application for review

In accordance with section 101 of the *Trade Practices Act 1974*, a person dissatisfied with this determination may apply to the Australian Competition Tribunal for a review of the determination. An application for review must be made within 21 days of the date of this determination - that is, on or before 20 July 2006. The Tribunal is located in the Office of the Registrar of the Federal Court in each state.

If no application to review is lodged by this date, the ACCC's determination will come into force on 21 July 2006.

This letter has been placed on the ACCC's public register. If you have any queries or wish to discuss any aspect of this matter, please contact Liam Stewart on 02 6243 1275.

Yours sincerely

Scott Gregson
General Manager
Adjudication Branch

1. Council of Small Business Organisations of Australia Ltd
2. Australian Capital Territory Department of Justice and Community Safety
3. Attorney-General's Department
4. New South Wales Office of Fair Trading
5. Office of the Privacy Commissioner
6. Queensland Government, Department of Tourism, Racing and Fair Trading
7. Consumers' Federation of Australia
8. Financial Services Consumer Policy Centre
9. Consumer Credit Legal Centre (NSW) Inc
10. Robin Whittle – First Principles
11. Consumer Affairs Victoria
12. Australian Consumers' Association
13. Consumer Law Centre Victoria
14. Australian Securities and Investments Commission
15. Royal Institute for Deaf and Blind Children
16. Fundraising Institute of Australia
17. Australian Market and Social Research Society
18. Callcentres.net
19. Consumer Credit Legal Service (WA)
20. Consumer Credit Legal Service (Victoria)
21. Australian Teleservices Association
22. Department of Justice (NT)
23. Office of Consumer and Business Affairs (SA)
24. Office of Consumer Affairs and Fair Trading (Tasmania)
25. Department of Consumer and Employment Protection
26. Australian Bankers Association
27. Australia Post
28. Australian Retailers Association
29. Department of Communications, Information, Technology and the Arts
30. Investment and Financial Services Association
31. Australian Marketing Institute
32. Electronic Frontiers Australia
33. Australian Chamber of Commerce and Industry
34. Australian Privacy Foundation
35. Xamax Consulting
36. Communications Law Centre
37. Department of Treasury