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Australian  
Competition &  
Consumer  
Commission

Our Ref: C2006-50-02  
Contact Officer: Carl Toohey/Tina Pigliardo  
Contact Phone: (03) 9290 1480/1481

6 July 2006

[Address]

GPO Box 520  
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)

Dear

**Applications for Revocation and Substitution lodged by the Community Care Underwriting Agency (CCUA) in relation to supply of public liability insurance - final determination**

The Australian Competition and Consumer Commission (the ACCC) has issued a determination in respect of applications for revocation of authorisations A30217 and A30218 and substitution of replacement authorisations A90997 and A90998, which were lodged by the Community Care Underwriting Agency (CCUA) on 22 December 2005.

The Applicants (Allianz Australia Insurance Limited, QBE Insurance Limited and Insurance Australia Limited – trading as NRMA Insurance) seek re-authorisation of an unincorporated joint venture agreement – operating through an agent (QBE) and trading as CCUA – for the collective supply of public liability insurance to eligible ‘not for profit organisations’ (NFPOs) through a ‘co-insurance pool’.

The co-insurance pool arrangements were originally authorised in March 2004. This authorisation was due to expire on 31 December 2006.

A copy of the determination is attached and is also available on the ACCC website at [www.accc.gov.au](http://www.accc.gov.au) (by following the Public Registers & Authorisations links).

**Summary of ACCC considerations**

Having considered the application and submissions from the Applicants and interested parties, the ACCC has decided to revoke authorisations A30217 and A30218 and grant substitute authorisations A90997 & A90998 to the Applicants in respect of the joint venture arrangements which govern the operation of the CCUA co-insurance pool to:

- continue to write or renew policies up until 31 December 2006 and
- give effect to any policies until 31 December 2007.



The ACCC considers that 'softening'(i.e. increased capital availability leading to market entry and lower premiums) conditions in the market within which public liability insurance is supplied since authorisation was last considered and changes to the joint venture agreement have reduced both the anti-competitive detriments and the public benefits associated with the arrangements.

#### *Public detriment*

The ACCC is of the view that the anti-competitive detriment flowing from the proposed arrangements is likely to now be limited due to the increased level of competition in the market, improved conditions for market entry and the increased countervailing power of brokers. In addition, the ACCC considers that the amendment to the joint venture agreement may operate to reduce the level of anti-competitive detriment in that the Applicants are now not prevented from competing against each other for NFPO business, and in some cases may have a commercial incentive to do so.

#### *Public benefit*

The ACCC considers that the change in market conditions since authorisation was last considered in 2004 appears to have led to the increased availability and affordability of public liability insurance for NFPOs. This suggests that the public benefits associated with the co-insurance pool have reduced since authorisation was last considered.

The ACCC considers it possible that the co-insurance pool arrangements may continue to result in a limited public benefit to the extent that they improve the availability and affordability of public liability insurance for certain NFPOs. However, the ACCC considers that throughout its consideration of the current application, the Applicants have not provided specific evidence which establishes that the co-insurance pool would significantly impact on the availability or affordability of such insurance for NFPOs in the current market environment.

#### *Balance of public detriment and public benefit*

On balance, the ACCC is not satisfied that the public benefits demonstrated by CCUA is likely to outweigh any public detriment. While not proposing to grant ongoing authorisation, the ACCC believes there is, however, a net public benefit in authorising the co-insurance pool for a short period, to allow NFPOs with current CCUA policies to find alternative arrangements. Authorisation is granted for CCUA to give effect to any policies until the end of 2007.

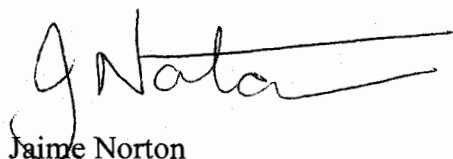
In undertaking its assessment, the ACCC did note that it may be possible for CCUA to amend its arrangements to remove trade practices concerns.

#### **Application for review**

Pursuant to section 101 of the *Trade Practices Act 1974*, a person dissatisfied with this determination may apply to the Australian Competition Tribunal for its review. An application for review must be made within 21 days of the date of this determination; that is, on or before 27 July 2006. If no application to review is lodged by this date, the ACCC's determination will come into force on 28 July 2006.

This letter has been placed on the ACCC's public register. If you wish to discuss any aspect of this matter or would like a copy of the determination sent to you, please do not hesitate to contact Carl Toohey on (03) 9290 1480 or Tina Pigliardo on (03) 9290 1481

Yours sincerely

A handwritten signature in black ink, appearing to read 'Jaime Norton', with a horizontal line drawn through the middle of the signature.

Jaime Norton  
A/g Director  
Adjudication Branch

**Determination sent to the following list of IP's**

Aradlay Insurance Brokers  
St John Ambulance Australia  
Commonwealth Department of Family  
and Community Services  
Consumer Affairs Victoria  
Department of Treasury  
Local Government Association of  
Queensland Inc  
Munich Holdings Australasia Pty  
Limited  
New South Wales Office of Fair  
Trading  
South Australia Office of Consumer and  
Business Affairs  
TIO  
Volunteering Australia  
Australian Council for the Arts  
Westpool