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**Australian
Competition &
Consumer
Commission**

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Our Ref: C2006-50-02
Contact Officer: Carl Toohey/Tina Pigliardo
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6 July 2006

[Address]

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 available on the ACCC website at www.accc.gov.au (by following the Public Registers and 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.

However, the extent to which the Applicants will compete against each other for NFPO's business under the arrangements as amended is unclear given that they will continue to set the terms of supply for some NFPOs collectively. In turn, this may affect the terms on which they offer such insurance individually.

Further, to the extent that the agreement by the Applicants not to pay broker commissions in respect of NFPO business written by the co-insurance pool reduces the role of brokers in the market, this may also generate some public detriment.

Public benefits

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.

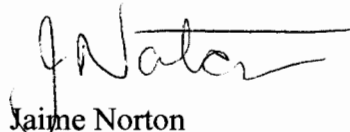
In undertaking its assessment, the ACCC did note that it may be possible for CCUA to amend its arrangements to remove trade practices concerns.

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 'J Norton', with a horizontal line extending to the right.

Jaime Norton
A/g Director
Adjudication Branch

Company
Aged and Community Services
Australia

Agricultural Societies Council of NSW

Association of Childrens Welfare
Agencies

Association of Independent Schools of
Australian Capital Territory Consumer

Australian Charities

Australian Red Cross NSW

Community Information Strategies
Australia Inc.

Council of Australian Museum
Directors

Council of Social Service of New South
Wales

Country Women's Association of
Australia

Country Women's Association of NSW

Federation of Australian Historical
Societies Inc

Fundraising Institute – Australia

Gerling Australia Insurance

Insurance Brokers Disputes Limited

Lumley General Insurance Ltd

National Association of Community
Legal Centres

Our Community Pty Ltd

Queensland Council of Parents' &
Citizens' Associations Incorporated

Queensland Council of Social Service

Royal Agricultural Society of Tasmania

SA Tourism Alliance

The Association of Apex Clubs of
Australia

Victorian Council of Social Service
Level 6

Merv Oakley Goju Karate

Australian Council of Social Service

Australian Lawyers Alliance

Australian Prudential Regulation
Authority

Australian Unity and General Insurance
Ltd

Combined Insurance Company of
Australia

Consumer Law Centre of Victoria

Council of Small Business
Organisations of Australia Ltd

Department of Communications,
Information Technology and the Arts

Department of Consumer and
Employment Protection

Jardine Lloyd Thompson Australia
Level 8

Lions Australia

Lloyd's Australia Limited

Local Government Association of
Tasmania

Local Government Association of the
Northern Territory

Local Government Association
of South Australia

Marsh Pty Ltd

Municipal Association of Victoria

National Insurance Brokers Association

NSW Sport and Recreation

Queensland Office of Fair Trading

Queensland Tourism Industry Council

RACQ Insurance Ltd

Sport and Recreation Victoria

Suncorp Metway Insurance Ltd

Department of Justice

The Institute of Actuaries of Australia

Western Australian Local Government
Association

Westpac General Insurance
Endeavour House

Zurich Financial Services Australia Ltd

RDA Australia

Confederation of Australian Sport

Isolated Children's Parents Association
Australia Inc

Kiama and District Arts Council Inc

The Isolated Children's Parents
Association of NSW

Wesfarmers Federation Insurance

Wildlife Preservation Society of
Queensland

Rural and General Insurance Broking

QBE Insurance