



Australian  
Competition &  
Consumer  
Commission

Our Ref: C2006/1674  
Contact Officer: Kelvin Binning  
Contact Phone: 02 6243 1351

PO Box 1199  
Dickson ACT 2602  
470 Northbourne Ave  
Dickson ACT 2602  
ph (02) 6243 1111  
fax (02) 6243 1199  
[www.accc.gov.au](http://www.accc.gov.au)

7 September 2006

*Name*  
*Organisation*  
*Address*  
*Address*

Dear *Interested Party*

**Review of Authorisation A6058 lodged by the South Australian Mixed Business Association Inc (SAMBA)**

The purpose of this letter is to invite your comment on a decision by the Australian Competition and Consumer Commission (ACCC) to review authorisation A6058 granted to the South Australian Mixed Business Association (SAMBA) by the Trade Practices Commission (TPC) on 9 April 1979. The TPC is now the ACCC.

The ACCC has been informed that SAMBA has been replaced in the market place by the State Retailers Association of SA Inc (the Association); and SAMBA has continued on as the commercial entity of the Association. The Association has also informed the ACCC that it still relies on the authorisation to supply members with the Price Guide.

The ACCC has formed the view that a material change of circumstances has occurred since authorisation was granted to SAMBA in 1979.

Having reached this view, section 91B of the *Trade Practices Act 1974* (the Act) requires the ACCC to publish a Notice (attached) setting out its preliminary considerations and to seek the views of interested parties as to whether the authorisation, in the current environment, results in a net benefit to the public.

I am writing to you as we consider that you may be a party with an interest in the authorisation. A copy of the authorisation is enclosed for your information.

*The Authorisation Process*

By way of background, the ACCC is the independent Australian Government agency responsible for administering the Act. A key objective of the Act is to prevent anti-competitive conduct, thereby encouraging competition, efficiency, and a greater choice for consumers.

The Act allows the ACCC to grant immunity for anti-competitive conduct in certain circumstances. Broadly, the ACCC may 'authorise' businesses to engage in anti-



competitive arrangements or conduct where it is satisfied that the public benefit from the arrangements or conduct outweighs any public detriment.

Section 91B of the Act provides that if it appears to the ACCC that there has been a material change of circumstances since the authorisation was granted, the ACCC may invite submissions from interested parties on the authorisation.

Following the consultation process the ACCC is required to consider the views of interested parties and such other information as may be before it, and make an assessment as to whether the authorisation remains in the public interest. Based upon this assessment the ACCC must then make a determination, in writing, either revoking the authorisation or deciding not to revoke the authorisation.

It should be noted that the issuing of this Notice is the first step in the authorisation review process and is required by section 91B of the Act to initiate consultation with interested parties. The ACCC has not formed a view as to whether it will decide to revoke (or not to revoke) the authorisation.

#### *Background to the SAMBA Authorisation*

On 9 April 1979, the TPC granted the SAMBA authorisation to publish and circulate a trade journal containing suggested retail prices for the guidance of the public and assistance to its members.

In reaching its decision the TPC placed reliance on the SAMBA's submission that its members only accounted for 5% of the retail grocery market in South Australia. The TPC also considered that the SAMBA's membership consisted of small family operated convenience businesses that would benefit from the efficiency provided by the price guide journal.

#### *Request for submissions*

The ACCC invites you to make a written submission concerning authorisation A6058 and the Notice accompanying this letter. In particular, the ACCC would like to invite your views on:

- the likely effect on the balance of public benefit and detriment of any changes to the authorised conduct
- the likely effect on the balance of public benefit and detriment of changes to the environment in which the authorisation operates and
- any other issues that may be relevant to the ACCC's consideration of this matter.

If you wish to lodge a submission please do so by close of business on **29 September 2006**.

The ACCC asks for submissions to be in writing so that they can be made publicly available. Submissions are placed on a public register and on the ACCC's website. Should you lodge a submission with the ACCC you may request that information included in the submission be excluded from the public register and website. Guidelines for seeking exclusion from the public register are attached for your information.

Submissions should be addressed to:

The General Manager  
Adjudication Branch  
Australian Competition & Consumer Commission  
P O Box 1199  
DICKSON ACT 2602

Submissions can also be lodged by e-mail to [adjudication@acc.gov.au](mailto:adjudication@acc.gov.au) or by fax on (02) 6243 1211.

A copy of this letter will be placed on the ACCC's public register and website [www.acc.gov.au](http://www.acc.gov.au). If you have any questions please do not hesitate to contact Kelvin Binning on (02) 6243 1351.

Yours sincerely



*Jo* Joanne Palisi  
Director  
Adjudication Branch

Enc. Notice  
Authorisation A6058  
Guidelines for confidentiality claims

**Interested party list**

- Metcash Limited
- National Independent Retailers Association
- Office of the Produce and Grocery Industry Ombudsman
- Australian Retailers Association
- National Association of Retail Grocers of Australia
- Council of Small Business Organisations of Australia
- Franchise Council of Australia
- Safework SA
- Coles Myer
- Woolworths
- Office of Consumer and Business Affairs SA