

Our Ref: A30244 & A30245
Contact Officer: Margaret Abou-Rizk
Contact Phone: 03 9290 1484

1 November 2006

[Name]
[Position Title]
[Company]
[Address]

Dear [Salutation]

**The Municipal Association of Victoria – applications for authorisation [A30244-A30245]
- request for interim authorisation**

I refer to my previous letter of 6 October 2006. The Australian Competition and Consumer Commission (the ACCC) has decided to grant interim authorisation in respect of the applications for authorisation lodged by the Municipal Association of Victoria (MAV) on 29 September 2006.

MAV has sought authorisation on behalf of its member Councils that do not currently have an exclusive installation and maintenance contract for bus shelters, to participate in a tender process conducted by the Director of Public Transport (Director). The tender is for the provision of bus shelter installation and maintenance services on the Melbourne Metropolitan Bus Network. It is proposed that those Councils wanting to participate in this tender process would agree to do so by execution of a Memorandum of Understanding (MoU) with the Director. Under the proposed arrangement, the Director will be solely responsible for conducting the tender process and will issue an exclusive advertising licence in relation to the bus shelters to the successful tenderer.

Interim authorisation protects the arrangements for which authorisation is sought from legal action under the relevant provisions of the *Trade Practices Act 1974* while the ACCC considers and evaluates the merits of the application.

Summary of ACCC considerations

The ACCC has considered the request for interim authorisation and has decided to grant interim authorisation to allow MAV to facilitate council negotiations concerning the terms of the Memorandum of Understanding (MoU) with the Director of Public Transport (Director). Interim authorisation extends to allowing participating councils to enter into the MoU if they choose to. The effect of entering into the MoU would mean that councils would be involved in the Director's tender process for the procurement of bus shelter installation and maintenance services.

Interim authorisation commences from the date of this letter and will remain in place until the date the ACCC's determination comes into effect (unless circumstances warrant revocation or amendment of the interim authorisation at an earlier stage).

Interim authorisation does not extend to allowing final contracts encompassing council-owned shelters (the Bus Shelter Agreement) to be entered into or effected. The ACCC understands that the Director will not enter into any Bus Shelter Agreement prior to the ACCC issuing a final determination in this matter and that the Bus Shelter Agreement may be rolled back to exclude council-owned shelters if the ACCC were to deny final authorisation.

In assessing the request for interim authorisation, the ACCC considered that granting interim would not permanently alter the market dynamics. The granting of interim authorisation is unlikely to prevent the conduct from being wound back if the ACCC were to later deny authorisation.

The ACCC also considered timing issues to accommodate the commencement of the Director's proposed tender process in early November 2006 to ensure the Bus Shelter Agreement is finalised before the current PTC Agreement expires in July 2007.

Please be advised that the ACCC's decision in relation to interim authorisation should not be taken to be indicative of whether or not final authorisation will be granted by the ACCC.

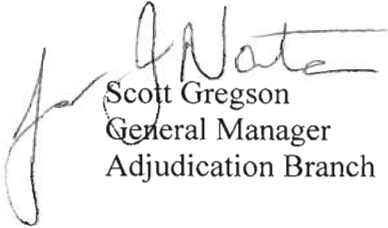
Next steps

As you are aware the closing date for submissions on the substantive applications for authorisation is **cob 3 November 2006**.

For your information, the next step in the process is for the ACCC to release a draft determination which will take account of any submissions from MAV and interested parties and will indicate the ACCC's preliminary views on the merits of the application. The ACCC will provide both MAV and interested parties with the opportunity to provide a further submission on the draft determination before the ACCC issues its final decision.

This letter has been placed on the ACCC's public register. Should you have any queries in relation to this matter, please contact Ms Margaret Abou-Rizk on 03 9290 1484 or at margaret.abou-rizk@acc.gov.au or Ms Jaime Norton on 03 9290 1477 or at jaimenorton@acc.gov.au.

Yours sincerely



Scott Gregson
General Manager
Adjudication Branch

**The Municipal Association of Victoria-Application for Authorisation
[A30244-A30245]**

Interested Parties – Granting of interim authorisation

- Adshel Street Furniture
- APN News & Media Limited
- Eye Group
- J.C Decaux Australia
- Octopus Media
- Network Outdoor
- Independent Outdoor Melbourne
- Jamco Sign Services
- Media Puzzle
- Australian Association of National Advertisers
- Advertising Federation of Australia
- Media Federation of Australia
- Outdoor Media Association
- Public Transport Users Association
- Bus Association Victoria
- Boroondara City Council
- Cardinia Shire Council
- Casey City Council
- Glen Eira City Council
- Hobsons Bay City Council
- Hume City Council
- Maribyrnong City Council
- Maroondah City Council
- Mornington Peninsula Shire Council
- Whitehorse City Council
- Whittlesea City Council
- Wyndham City Council
- Yarra City Council
- Clemenger BBDO
- George Patterson Y&R
- Publicis Mojo
- McCann Erickson
- Singleton, Oglivy & Mather
- M&C Saatchi
- TMP Worldwide
- DDB Australia & New Zealand
- Adcorp
- Monash City Council
- Port Philip City Council
- Banyule City Council
- Moreland City Council
- Manningham City Council
- Moonee Valley City Council
- Greater Dandenong City Council
- Public Transport Division