



**Australian
Competition &
Consumer
Commission**

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Our Ref: C2006/1814
Contact Officer: Louise Hird
Contact Phone: 03 9290 1484

14 February 2007

[Address]

Dear

**Re: Municipal Association of Victoria Applications for authorisation A30244 – A30245
- final determination**

The Australian Competition and Consumer Commission (the ACCC) has issued a determination granting authorisation in respect of the application for authorisation lodged by the Municipal Association of Victoria (MAV) on 29 September 2006.

MAV 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.

Having considered the application and submissions from MAV and interested parties, the ACCC has decided to grant authorisation until 31 July 2017.

The ACCC considers that while the proposed arrangements have the potential to impact competition in the provision of street furniture and outdoor advertising, the extent of such detriment is significantly mitigated by a number of features and in particular:

- the number of councils currently participating in the proposed arrangements is 8 constituting only 25 per cent of Victorian councils
- while unclear, there may exist an opportunity for these councils to opt out of the arrangements prior to the completion of the tender process should competing providers offer more attractive terms to individual councils



- while further councils may choose to participate at a later time, this would be an individual decision of the council influenced by the terms offered by competing providers
 - moreover, the proportion of the supply and maintenance of street furniture and outdoor advertising potentially affected by the proposed arrangements is low with competition existing from the remainder of the market and
 - competition arising
 - at the time of the initial tender,
 - throughout the life of the contract, as Councils not entering into the arrangements in the first instance have the option of becoming parties to the collective arrangements as their existing individual contracts expire, and
 - at the conclusion of any contract period,
- will provide competitive restraint throughout the life of the contract.

The ACCC considers the proposed arrangements will generate some public benefit in the form of:

- transaction cost savings for Councils in negotiating with prospective street furniture suppliers and
- the possibility that the services may be provided at a lower price than would otherwise be the case with savings benefiting councils and their ratepayers.

Therefore, after considering all the information before it, the ACCC is of the view that the public benefits flowing from the arrangements are likely to outweigh anti-competitive detriments and the ACCC has decided to grant authorisation.

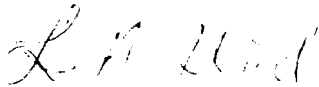
Application for review

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 7 March 2007. If no application to review is lodged by this date, the ACCC's determination will come into force on 8 March 2007

A copy of the final determination providing full details of the ACCC's reasons for its decision can be found at www.accc.gov.au.

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 Louise Hird on 03 9290 1484.

Yours sincerely

A handwritten signature in black ink, appearing to read "L. Hird".

^h Gavin Jones
Director
Adjudication Branch

Interested Parties
Adshel Street Furniture
APN News & Media Limited
J.C Decaux Australia
Independent Outdoor Melbourne
Australian Association of National Advertisers
Advertising Federation of Australia
Media Federation of Australia
Outdoor Media 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
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