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Our ref: PRH 0405926/003 SYK

24 January 2007

Ms Louise Hird
Australian Competition and Consumer Commission
Level 35, 360 Elizabeth Street
MELBOURNE VIC 3000

Dear Ms Hird

**Municipal Association of Victoria
Applications for Authorisation A30244 & A30245
Request for further information**

- 1 We refer to your email dated 18 January 2007 and your correspondence dated 19 January 2007 seeking clarification on the process to be undertaken by the Director to exercise the option to extend the contract upon the expiration of the initial 10 year term.
- 2 We confirm that the tender is for a contract between the Director and the supplier, and it will be the Director who will derive the benefits and incur the obligations in the contract. Therefore, as a matter of law, the councils will not be obtaining the services of the contracted supplier under the contract.
- 3 The proposed contract provides that the option to extend the contract upon the expiration of the initial 10 year term will be exercised at the discretion of the Director.
- 4 It is anticipated that the decision whether the Director should exercise the option to extend the contract upon the expiration of the initial 10 year term will involve some consultation with councils. The extent of that consultation may depend, in part, on whether any complaints or comments are received from councils about the level of service during the term of the contract.
- 5 We confirm that the decision whether to exercise the option to extend the contract upon the expiration of the initial 10 year term will be made against such governmental criteria as transparency, accountability and being in the public interest in accordance with the Public Sector Conduct Principles contained in the Code of Conduct for the Victorian Public

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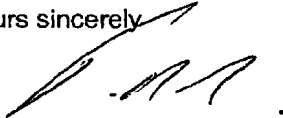
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Sector. This means that the Director will consider the views and needs of all sectors of the community, will have a long-term planning perspective and will ensure the equitable delivery of public goods and services. The Director will also have regard to the Good Practice Guidelines for the Conduct of Commercial Engagements in Government published by the Victorian Department of Treasury and Finance in achieving the objective of good value-for-money outcomes.

- 6 The Director's decision whether to exercise option to extend the contract upon the expiration of the initial 10 year term may also have regard to the adjacent procurement of Melbourne's tram shelter agreements, which have variable termination dates. Having the flexibility to align the procurements of multiple transport shelter networks creates procurement efficiencies (and therefore transaction cost savings), along with the prospect of greater market interest due to the combined value of the shelter networks.

Yours sincerely



Paul Holm

Partner

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