



**Australian  
Competition &  
Consumer  
Commission**

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Our Ref: C2007/1617  
Contact Officer: Joanne Palisi  
Contact Phone: 02 6243 1323

17 September 2007

Mr Paul D Evans  
Partner  
Freehills  
GPO Box U1942  
Perth WA 6845

Dear Mr Evans

**Re: Exclusive Dealing Notification lodged by Racing and Wagering Western Australia  
N93093- pre-decision conference**

As you are aware, Racing and Wagering Western Australia (RWWA) has requested that the Australian Competition & Consumer Commission (the ACCC) convene a conference in relation to the draft notice issued by the ACCC on 29 August 2007.

**Details about the pre-decision conference**

A pre-determination conference provides a valuable opportunity for applicants and interested parties to make oral submissions to the ACCC about its draft notice.

The ACCC will hold the conference on **11 October 2007**. The conference will be held at:

**Novotel Langley Perth  
221 Adelaide Terrace  
Perth WA 6000**

Conference registration will be from 9.15am and the conference will commence at 9.30am in the Novotel's Boardroom.

Under the *Trade Practices Act 1974* (the Act), the conference may be attended by the applicant and other interested parties. Please provide names and position titles of RWWA's representatives who will be attending the conference. If there is more than one representative please indicate who will be RWWA's chief spokesperson. Please provide this information by **cob 3 October 2007**.

You may address this information to:

The General Manager  
Adjudication Branch  
Australian Competition and Consumer Commission  
GPO Box 3131  
Canberra ACT 2601

You can also notify the ACCC by e-mail to: [adjudication@accc.gov.au](mailto:adjudication@accc.gov.au) or by facsimile on 02 6243 1211.

I would also note that, while conference participants may bring outside legal or other professional advisers to assist them, the Act provides that these advisers are not entitled to participate in conference discussions.

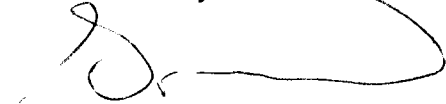
Attached for your information are procedures usually followed at pre-decision conferences.

### **Written submissions**

I note that written submissions in response to the ACCC's draft notice are due on **21 September 2007**.

A copy of this letter has been placed on the ACCC's public register. If you require any further information in regard to the conference, please do not hesitate to contact Joanne Palisi on 02 6243 1323.

Yours sincerely



Scott Gregson  
General Manager  
Adjudication Branch

## AN OUTLINE OF THE PROCEDURES USUALLY FOLLOWED AT CONFERENCES IN RELATION TO DRAFT NOTICES

The Australian Competition and Consumer Commission (ACCC) tries to conduct conferences in relation to draft notices as informally, flexibly and speedily as possible. Where necessary, a conference may be adjourned and reconvened at a later time.

An interested party attending a conference may have the assistance of outside legal or other professional advisers. Although such persons may attend the conference to assist; they are not entitled to participate in the discussion.

The conference will serve a useful purpose in that it gives the ACCC and all interested parties the opportunity to meet face-to-face to discuss the operation and effect of the notified conduct and the ACCC's draft notice proposing to revoke the notification. The notifying party and/or interested persons have the opportunity to persuade the ACCC to accept their view. The ACCC benefits from direct contact with the parties, and its perceptions of public benefits and detriments are tested in a forum of interested parties where points are often quickly and forcefully made.

### **1. Preliminary procedures**

- (a) When you arrive at the conference you will find that a seating plan may be available. You should identify yourself to ACCC staff before the conference begins and indicate clearly if you expect messages to be left for you during the conference. Further, please complete the attendance book when arriving at the conference. This assists ACCC staff to identify attendees for the purpose of recording the discussion.
- (b) The Chair (a Commissioner) will open the conference by welcoming those present and outlining the requirements of the *Trade Practices Act 1974* and the manner in which the conference will be conducted. An agenda may be circulated.
- (c) If you intend to present a written comment (and you are encouraged to do so), it is helpful if the ACCC receives it before the conference date. It can then be copied and distributed at the conference. In this way, both the ACCC and other parties present are assisted, and your submission forms part of the conference record. If you cannot complete the written submission earlier, it is helpful if you come to the conference with extra copies which can be distributed.
- (d) If you intend to present a submission at the conference and you wish it (or certain details in it) to be excluded from the public register, you should make your request to the Chair at the time of presenting the document, and you should state in general terms the reason for your request. The Chair may request other parties present to leave the conference for a short period, so that you may be given the opportunity, if necessary to expand on your reasons.

If your request for the document (or parts of it) to be excluded from the public register is denied you may ask for the document (or parts of it) to be returned to you. Any material returned to you will ordinarily not be taken into consideration by the ACCC in making its final decision (unless, of course, it was supplied from another source).

Any document you present without making any request for it to be excluded from the public register will be placed on the ACCC's public register, and the information it contains may be used by the ACCC in making its decision. Where information is excluded from the public register, the information may also be taken into account, although such material will not be placed on the public register.

## **2. General procedures**

- (a) The conference has been convened to discuss the draft notice, to canvass points of view and to assist the ACCC's weighing of issues and its interpretation of the information given to it.
- (b) The procedure is discretionary. The Chair controls the order of discussion, and may take particular topics separately, so that all the discussion, on any given topic may be heard at the one time.
- (c) The conference is not a court, and there is no right of cross-examination. You may request the Chair to ask questions of other parties present, but the Chair retains the discretion as to whether your questions will be put. The Chair, of course, may also directly question the parties at the conference, and they have discretion whether or not to answer.
- (d) ACCC staff present will make a record of the discussion. This will be in minute form, not a verbatim record. The conference record is placed on the public register, and all who attend the conference will receive a copy.
- (e) When the Chair believes that all present have been given a reasonable opportunity to express their views, he/she may terminate the conference.
- (f) The Chair (and any other Commissioner at the conference) cannot give a final decision at the close of the conference. Each Commissioner is only a representative of the ACCC and is required to report back to the ACCC, which will make the final decision.

## **3. Other matters**

- (a) Following the conference in relation to the draft notice, the ACCC will review the draft notice in the light of discussion and further submissions made at the conference (or within a set period of time after the conference), and will make its final decision as soon as possible thereafter.