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Our ref: PRH 0405926/003 SYK
Your ref: A30244 & A30245
Public Register No. C2006/1839

19 January 2007

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

By email: Louise.Hird@accc.gov.au

Public register version

Dear Ms Hird

**Municipal Association of Victoria: Applications for Authorisation
Comments on the draft Determination**

1 We refer to the draft determination issues by the Commission on 21 December 2006 and provide comments and submissions on the draft determination below. The contents of this letter may be placed on the public register insofar as a restriction of publication is not claimed on the published part.

Paragraph 3.4: The replacement of Council owned shelters

2 We note the Commission's statement that:

"it is expected that the Bus Shelter Agreement will cover the replacement of Council-owned shelters (subject to ACCC granting authorisation".

3 We confirm that our client's submission in relation to the applications states on page 7 that the Bus Shelter Agreement may also deal with the replacement of Council owned shelters.

Paragraph 6.20: Market for the supply and maintenance of street furniture

4 We refer to the following sentence in paragraph 6.20:

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Page 1 of

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"Further, individual Councils will remain free to opt out of the proposed arrangements and negotiate directly with any street furniture provider at the completion of the tender process if they are not satisfied with the proposed terms and conditions offered by the successful tenderer."

- 5 We confirm our letter dated 20 December 2006 that councils who wish to participate in the proposed arrangements will be asked to execute a legally binding agreement prior to the execution of the contract between the Director and the successful tenderer that will bind the council to the arrangements for the duration of the contract.

Paragraph 6.54: Increased public transport patronage

- 6 We note that the Commission does not place significant weight on the argument that improved quality and number of bus shelters will increase public transport patronage with associated environmental benefits.
- 7 While we agree with the Commission's view that many factors influence a commuter's choice of transport, we note that the Victorian Government and parties affected by the provision of bus shelters have identified the provision of stop facilities such as bus shelters as a key determinant in the use of public transport services.
- 8 The Victorian Government is investing approximately \$1.4 billion in bus services over the next 10 years, as announced in the "Meeting our Transport Challenges" policy statement released in May 2006. This investment will primarily comprise an increased span of operation and significantly improved frequency of services. Based on information obtained by the Department, frequency and reliability of bus services have been ascertained as being the top 2 factors influencing patronage growth. Whilst bus stop infrastructure on its own may not result in patronage growth, the inadequate provision of bus stop infrastructure in line with that investment has the potential to substantially negate the expected patronage growth from improved frequency and reliability.
- 9 Bus Association Victoria stated in its submission to the Victorian Competition and Efficiency Commission (VCEC) on the management of transport congestion that:
- "Without well designed interchanges, public transport will struggle to compete with the car for trips, and congestion caused by car dependence will continue ... Many of Melbourne's public transport interchanges are poor – often with uncovered lengthy poorly signed walking paths."*¹
- 10 Maroondah City Council stated in its submission to the VCEC on the management of transport congestion that bus improvements seem to be one of the best short term

¹ Bus Association Victoria, Submission 57 to the VCEC Inquiry into Managing Transport Congestion, 8 December 2005, page 25.

solutions to reduce congestion, and that bus stop infrastructure is one of the top 5 critical transport challenges it faces².

Paragraph 6.56: Better co-ordination between local and state governments

11 We note that the Commission does not consider that a co-ordinated approach to the supply and maintenance of bus shelters in itself provides significant benefits to the public in itself, outside the public the benefit in promoting cooperation between local and state governments in relation to public transport and urban development.

12 While the quantity of the benefit directly attributable to bus shelters is not immediately quantifiable, we would submit that an attempt to split the total benefit to the community of a co-ordinated approach to road management into constituent parts does not pay due regard to the compounding benefits that result from the overall co-ordination and integration of road management policy. It is our view that the significant public benefit arises from the co-ordination and integration of bus shelter supply and maintenance as an integral part of the overall co-ordination and integration of road management.

13 The VCEC stated in its report to the Victorian Government on transport congestion that:

*"Clearly, coordination between local and State Government is essential. If planning decisions are made independently or road management responsibilities are unclear, there is a real risk that neither government will achieve its objectives because they undermine each other's effectiveness."*³

Paragraph 6.57: ACCC conclusion on public benefits

14 We would be grateful if the Commission would clarify the last sentence in this paragraph, being:

"Similarly, the proposed arrangements are also likely to result in transaction cost for Councils in negotiating with prospective street furniture suppliers."

As the context of the paragraph seems to indicate that the Commission can see cost savings in the proposed arrangements, the sentence seems to be at odds with that context.

² Maroondah City Council, Submission 20 to the VCEC Inquiry into Managing Transport Congestion, 22 November 2005,

³ Victorian Competition and Efficiency Commission, *Making the Right Choices: Options for managing transport congestion*, April 2006, submitted to the Victorian Government on 14 September 2006, page 362.



DLA PHILLIPS FOX

Yours sincerely,

A handwritten signature in black ink, appearing to read 'P. Holm', written over a light blue horizontal line.

Paul Holm

Partner

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