

## Philp, Susan

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**From:** Philp, Susan  
**Sent:** Wednesday, 3 September 2008 4:38 PM  
**To:** 'Oddie, Carolyn'  
**Cc:** Ahearne, Charlotte  
**Subject:** ACCC - Insurance Council of Australia - authorisation A91086 - Determination [SEC=UNCLASSIFIED]

**Categories:** SEC=UNCLASSIFIED  
**Attachments:** ACCC - Insurance Council of Australia - Determination A91086.pdf  
**ACCC Classification:** SEC=UNCLASSIFIED

Our Ref: C2008/483  
Contact Officer: Susan Philp  
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3 September 2008

Ms Carolyn Oddie  
Partner  
Allens Arthur Robison  
GPO Box 50  
Sydney NSW 2001

*By e-mail: Carolyn.Oddie@aar.com.au*

Dear Ms Oddie

### **Insurance Council of Australia application for authorisation A91086 - determination**

The Australian Competition and Consumer Commission (the ACCC) has issued a determination in respect of the application for authorisation lodged by the Insurance Council of Australia on 20 March 2008.

The Insurance Council sought authorisation for an agreement between its members (both present and future) to voluntarily adopt a common definition of 'inland flood' for the purposes of the provision of flood insurance services to the community.

#### **ACCC assessment**

In its draft determination the ACCC considered that the Insurance Council's proposed common definition was *not* likely to deliver benefits to the public which would outweigh its likely anti-competitive detriment. The ACCC however considered that, with the imposition of conditions, it was more likely that the net public benefit test could be met and accordingly proposed to grant conditional authorisation to the Insurance Council and its members.

Having had regard to the additional materials provided to it by consumer groups, the Australian Securities and Investments Commission and the National Insurance Brokers Association following the draft decision, the ACCC can no longer be satisfied that the imposition of conditions would alleviate its concerns. In particular the ACCC notes that the potential for the proposed common definition to introduce new concepts and to increase consumer confusion is not a concern which can be addressed by the imposition of conditions.

The ACCC has therefore decided to **deny** authorisation to application A91086.

The ACCC recognises the efforts by Government and industry aimed at improving both the availability and consumer understanding of flood insurance. The ACCC also recognises that this is a complex issue and encourages the Insurance Council and its members to continue working with consumer groups and other interested stakeholders.

The ACCC encourages the Insurance Council, its members and interested stakeholders to consider refinements to the proposed common definition which may alleviate the concerns identified by this determination.

The ACCC notes that its decision in this matter does not prevent the insurance industry from seeking authorisation of a revised proposal in the future.

A copy of the ACCC's determination, setting out its reasons for reaching this decision, is attached.

### **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 25 September 2008. If no application to review is lodged by this date, the ACCC's determination will come into force on 26 September 2008.

An application for review of the ACCC's determination should be lodged directly with the Australian Competition Tribunal. The Australian Competition Tribunal is a separate body from the ACCC and is located within the Federal Court of Australia.

For further information about the process involved in reviewing decisions in the Australian Competition Tribunal please refer to the Tribunal's website located at <http://www.competitiontribunal.gov.au/>.

This letter has been placed on the ACCC's public register. If you wish to discuss any aspect of this matter please do not hesitate to contact the writer on 02 6243 1347.

Yours sincerely

Susan Philp

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