

Philp, Susan

Subject: FW: 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

From: Philp, Susan

Sent: Wednesday, 3 September 2008 4:38 PM

To:

Subject: ACCC - Insurance Council of Australia - authorisation A91086 - Determination [SEC=UNCLASSIFIED]

Our Ref: C2008/483

Contact Officer: Susan Philp

Contact Phone: 02 6243 1347

3 September 2008

Dear Sir / Madam

**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

Director
Adjudication
Australian Competition & Consumer Commission
Lv2, 23 Marcus Clarke Street, Canberra ACT 2601

P: (02) 6243 1347 | F: (02) 6243 1211 | E: susan.philp@acc.gov.au



ACCC - Insurance
Council of Au...

The above correspondence was sent to the following interested parties

- Australian Securities and Investments Commission
- Choice
- Financial System Division, The Treasury
- Insurance Ombudsman Service
- Department of the Prime Minister and Cabinet
- National Insurance Brokers Association
- Consumers' Association of Western Australia
- Attorney General's Department – Emergency Management Australia
- Insurance Reform Campaign
- NSW Office of Fair Trading
- Department of Consumer and Employment Protection
- Consumer Affairs Victoria
- Office of Consumer and Business Affairs
- Department of Justice and Attorney-General
- Consumer Affairs and Fair Trading
- Department of Justice
- Department of Justice and Community Safety - Office of Regulatory Services
- Consumer Action Law Centre
- West Heidelberg Community Legal Service
- Consumers' Federation of Australia
- Legal Aid Commission of NSW
- Consumers' Federation of Australia
- Legal Aid Queensland
- Insurance Law Service
- Central Queensland Community Legal Service
- Mackay Regional Community Legal Centre
- Townsville Community Legal Service