



**Australian
Competition &
Consumer
Commission**

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6 February 2009

Mr Andrew Rankin
Partner
Deacons
GPO Box 407
BRISBANE QLD 4001

Dear Mr Rankin

Application for minor variation to authorisation no. A50027 submitted by CS Energy Limited – request for material to be excluded from the public register

I refer to CS Energy Limited's submission regarding the above application for minor variation lodged with the Australian Competition and Consumer Commission (the ACCC) on February 2009.

I have considered your client's request that:

a confidential version of its submissions in support of Form FA

- Annexure B to the application and
- Annexure C to the application

be excluded from the ACCC's public register.

As you are aware, the ACCC is generally required under section 89 of the *Trade Practices Act 1974* (the Act) to place documents provided to it in relation to an application for authorisation on the ACCC's public register. The Act provides that a person submitting a document in relation to an authorisation application may request that the document or parts thereof be excluded from the public register by reason of the nature of certain information contained in the document.

As a person authorised to make a decision for and on behalf of the ACCC in relation to such a request, I advise that the above documents will not be placed on the public register.

This letter has been placed on the ACCC's public register.

I note that you also provided a public version of your clients' submissions in support of Form FA. This version will be placed on the public register in the form it was provided to the ACCC.

Further, I note that your client's submission contends that material furnished to the ACCC for the purpose of section 87ZD(1) is exempt from disclosure under the *Freedom of Information Act 1982* (FOI Act) by virtue of section 43 of the FOI Act. I wish to advise you that the ACCC will not make a determination as to whether a document is "exempt" under section 43 of the FOI Act unless and until a request for access to the document is made to the ACCC.

Should the ACCC receive an FOI request covering the relevant document, you will be consulted, as is required by section 27 of the FOI Act, prior to any decision to grant access to the document.

Should you have any queries in relation to this matter, please do not hesitate to contact Jasmine Tan on (02) 6243 1363.

Yours sincerely

A handwritten signature in black ink, appearing to be 'R Chadwick', with a long horizontal flourish extending to the right.

Dr Richard Chadwick
General Manager
Adjudication Branch