



**Australian
Competition &
Consumer
Commission**

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Our Ref: C2009/1325
Contact Officer: Gavin Jones
Contact Phone: 03 9290 1475

18 November 2009

Dear Sir/Madam

Australian Payments Clearing Association (APCA) applications for revocation and substitution A91153 & A91154 – interim authorisation and draft determination

The Australian Competition and Consumer Commission (the ACCC) has issued a draft determination in respect of the application for revocation and substitution lodged by APCA on 13 July 2009. Attached is a summary of the authorisation process including how to make a submission to the ACCC.

APCA is seeking authorisation for those provisions contained within the Consumer Electronic Clearing System (CECS) Regulations and Manual relating to initial certification of CECS members and to suspension and termination of CECS membership.

Draft determination

A copy of the ACCC's draft determination is attached, including a summary of its reasons. For the reasons set out in its draft determination, the ACCC proposes to grant authorisation for five years. The ACCC's assessment is set out in Chapter four on pages 16 to 23.

Next steps

Once the ACCC issues a draft determination, the Applicants or any interested party may request that the ACCC convene a 'pre-decision conference'. A pre-decision conference provides the opportunity for interested parties to make oral submissions in relation to the draft determination. Conferences are conducted informally and while legal or professional advisers are able to attend they are not entitled to participate in the discussion.

If you wish the ACCC to hold a pre-decision conference in relation to the draft determination, you must notify the ACCC in writing by **4 December 2009**. If a pre-decision conference is called it will be held in Melbourne in the week commencing **14 December 2009**.

Alternatively, you are invited to make a written submission in response to the ACCC's draft determination. Written submissions should also be lodged by **4 December 2009**.

The ACCC will consider any submissions it receives, including any oral submissions made should a pre-decision conference be called, and will then release a final determination in relation to these applications.

Submissions will be placed on the ACCC's public register subject to any request for exclusion (guidelines are attached).

Interim authorisation

On 27 October 2009 APCA sought interim authorisation for the arrangements. Interim authorisation protects the arrangements for which authorisation is sought from legal action under the relevant provisions of the *Trade Practices Act 1974* while the ACCC considers and evaluates the merits of the application.

On 30 October 2009 the ACCC granted interim authorisation.

In granting interim authorisation, the ACCC noted that the provisions in the CECS regulations and manual concerning initial certification of CECS members and the suspension and termination of CECS membership have not changed substantially since the ACCC last authorised the arrangements.

The ACCC considered that granting interim authorisation would preserve the status quo, allowing APCA and members of CECS to continue to engage in these arrangements while the ACCC considered the merits of the substantive application for revocation and substitution.

The ACCC may review its decision on interim authorisation at any time.

Timetable

The ACCC will continue to progress its assessment of the application in a timely manner. An updated indicative timetable is set out below for your information.

13 July 2009	Lodgement of application and supporting submission.
20 July 2009	Public consultation process begins.
27 October 2009	Lodgement of request for interim authorisation
30 October 2009	ACCC decision regarding interim authorisation.
18 November 2009	Draft determination.
November/December 2009	Public consultation on draft determination including any conference if called.
December 2009 - January 2010	Final determination.

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 me on 03 9290 1475.

Yours sincerely

A handwritten signature in black ink, appearing to read 'GJ', positioned above the printed name.

Gavin Jones
Director
Adjudication Branch

Sent to attached list

Indue Limited

Commonwealth Bank of Australia

Suncorp-Metway Ltd

Australian Bankers' Association

Australian Securities and Investments Commission

Reserve Bank of Australia

Advanced Payment Systems