



**Australian
Competition &
Consumer
Commission**

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30 November 2011

Dear Sir/Madam

Retirees WA (Inc) application for revocation of authorisation A91015 and substitution of new authorisation A91279 – interested party consultation

The Australian Competition and Consumer Commission (the ACCC) is currently conducting a consultation process in relation to the above mentioned application received from Retirees WA (Inc) (RWA) on 8 November 2011.

The purpose of this letter is to invite you, as a potentially interested party, to comment on the issues raised in this letter and RWA's application.

Application for 'reauthorisation'

RWA is seeking reauthorisation for:

- (a) collective bargaining regarding low cost funeral arrangements between RWA and the Western Australian Funeral Directors' Association (Incorporated) (WAFDA) on behalf of its members from time to time; and
- (b) collective bargaining regarding low cost funeral arrangements entered into between RWA and non-WAFDA funeral directors in Western Australia.

A full copy of the application for 'reauthorisation' is also available on the ACCC's website www.accc.gov.au/AuthorisationsRegister.

Application for interim authorisation

RWA has also requested interim authorisation, from 29 March 2012 (the date of expiry of the previous authorisation) until the date of the ACCC's final determination in relation to its application, to allow:

- (a) collective bargaining and the entry into funeral agreements between RWA and WAFDA on behalf of their members; and
- (b) collective bargaining and the entry into funeral agreements between RWA and non-WAFDA funeral directors in Western Australia.

The ACCC endeavours to deal with requests for interim authorisation quickly. In making an assessment as to whether it is appropriate to grant interim authorisation, the ACCC is not

required to undertake a full assessment of the benefit and detriment likely to arise as a result of the proposed conduct.

The ACCC decides whether to grant interim authorisation on a case by case basis. Should an applicant request interim authorisation, the ACCC will usually consider a range of factors, including:

- harm to the applicant and other parties if interim is or is not granted
- possible benefit and detriment to the public
- the urgency of the matter and
- whether the market would be able to return to substantially its pre-interim state if the ACCC should later deny authorisation.

Background to application

The ACCC has previously authorised similar arrangements between RWA and WAFDA in 2007 (A91015) and 2001 (A70012). Authorisation A91015, granted on 7 March 2007, will end on 29 March 2012. Accordingly, RWA has made the current application for interim and substantive authorisation of these arrangements.

Invitation to make a submission

The ACCC invites you to make a submission on the likely public benefits and effect on competition, or any other public detriment, from the proposed arrangements.

Further, the ACCC invites you to outline your general experience of the arrangements between RWA and WAFDA during the term of the previous authorisation. The ACCC would also welcome your views on the public benefits and anti-competitive detriments you consider have actually resulted from the arrangements between RWA and WAFDA during the previous authorisation period.

For example, in its 7 March 2007 Final Determination, the ACCC considered that these arrangements were not likely to result in any significant anticompetitive detriment due to:

- the very small segment of funerals in WA (around 5 per cent) covered by the arrangements;
- the ability of Funeral Fund members to opt out at any time should they be able to negotiate a better price individually; and
- the apparent high-degree of non-price competition in the relevant markets which the ACCC considered was likely to continue if the arrangements were authorised.

The ACCC also considered there was a public benefit in the provision of funeral directors services to a section of the community, some of which are financially disadvantaged, at a price lower than if the Funeral Fund in its current form was discontinued.

Deadline for submissions

If you intend to provide a submission in relation to RWA's application for interim or final authorisation, please do so by **19 December 2011**. Alternatively, if you would like to provide comments orally, please contact Tanya Hobbs on 02 6243 1029 to organise a suitable time.

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

Timetable

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

8 November 2011	Lodgement of application and supporting submission, including request for interim authorisation.
30 November 2011	Public consultation process begins.
19 December 2011	Closing date for submissions on interim authorisation and substantive authorisation from interested parties.
9 January 2011	Applicant responds to issues raised in the public consultation process.
January/February	Draft determination and ACCC decision regarding interim authorisation.
March	Public consultation on draft determination including any conference if called.
April/May	Final determination.

Please advise if you do not wish to make a submission at this time, but would like to be informed of the progress of the application at the interim, draft and final determination stages. If you are able to, please provide a nominated contact email address for future correspondence.

You can also forward this letter to any other party who may wish to make a submission to the ACCC regarding the application.

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 Tanya Hobbs on 02 6243 1029.

Yours sincerely



Richard Chadwick
General Manager
Adjudication Branch

Australian Funeral Directors Association
Department of Commerce
Metropolitan Cemeteries Board
Archer & Sons Funeral Homes
P&L Hogan Funeral Directors
Albany Funeral Directors
Baskerville Funeral Services
B D Coventry & Sons
Bethany Funeral Homes
Bowra & O'Dea Pty Ltd
Chapel Funerals
Dawson Funeral Home
Dobson Family Funeralcare
Esperance Funeral Services
Gascoyne Funeral Directors & Monumentals
Genesis Funeral Directors
Goldfields Funeral Directors
Graceland Funeral Consultant
Greenfields Funerals
Giudice & Barndon Funeral Directors & Monumental Masons
Hedland Funeral Services
Invocare
J Keenan & Co
Just Cremations
McKee Family Funerals
Mid West Funerals
Peaceful Funeral Services
Pilbara Funeral Services
Prosser Scott & Co Pty Ltd
R Falkingham & Son
Seasons Funerals
Simple Price Wise Cremations
Terina Bicanic Funeral Celebrant
Thompson's Funeral Services
Tidman's Funerals
William Barrett & Sons