



Mr Richard Chadwick  
General Manager  
Adjudication Branch  
Australian Competition & Consumer Commission  
GPO Box 3131  
CANBERRA ACT 2601

**Attention:** Susan Hogan  
**By email:** [susan.hogan@accg.gov.au](mailto:susan.hogan@accg.gov.au)  
**Your Ref:** 43860 C2010/954

21 March 2011

Dear Mr Chadwick

**Australian Hotels Association Divisions (AHA) application for authorisation –  
Draft Determination – AUSTAR Entertainment Pty Ltd (AUSTAR)**

AUSTAR welcomes the opportunity to make a submission in relation to the ACCC's Draft Determination dated 3 March 2011 proposing to authorise the AHA to collectively bargain on behalf of members.

The ACCC in its Draft Determination considers that the proposed collective bargaining arrangements are likely to deliver benefits to the public by providing a mechanism to improve the input of AHA members into price and non-price contract terms. AUSTAR has previously made submissions, and continues to hold the view, that these proposed benefits are illusory and can be achieved without the authorisation – given that AUSTAR has always consulted with the AHA and its members (and other non-AHA licensed venues) about licensed venues' needs (see our submission dated 29 November 2011).

AUSTAR also continues to hold the view that competition between AHA members, at least with respect to subscription television, creates a more efficient industry that ultimately drives down the prices licensed venues charge their patrons for entertainment, food and beverages. In our view, collective bargaining by the AHA on behalf of its members would reduce competition between licensed venues and would result, over time, in net detriments to consumers. In addition, the authorisation is likely to create additional costs and increased expenses for the service providers to which the application is directed.

For these reasons, AUSTAR believes that the ACCC in its final Determination should decline the collective bargaining authorisation.

However, in the event that the ACCC does not change its reasons or its decision, as set out in the Draft Determination, and does grant authorisation to the AHA, AUSTAR



holds a number of concerns in relation to the scope and extent of the authorisation. AUSTAR requests that the ACCC clarify the following in any Final Determination.

- (a) The AHA is defined (at paragraph 1.7 of the Draft Determination) as an organisation with over 5000 members “*spanning hotels, pubs, taverns, city bars, international standard accommodation hotels and resorts*”. As we’ve understood the AHA’s application, and on a reading of the ACCC’s reasoning in the Draft Determination, the focus of the authorisation application has always been centred around the AHA’s ‘licensed venue’ members – i.e. the licensed venue areas within a hotel or pub and not the ‘in-room’ entertainment within a hotel or resort.

If ACCC is going to grant authorisation as set out in the Draft Determination, the authorisation should be clearly restricted to these kinds of ‘licensed venue’ premises. AUSTAR is concerned that it may be thought that the authorisation could operate more widely because it has not been limited in this way.

- (b) To the extent that there is not the above clarity in any final decision of the ACCC – and that the scope of the authorisation may be thought to extend wider, for example to ‘in-room’ broadcasting services – AUSTAR is concerned that this would have additional and significant implications.

If ‘in-room’ subscription television is included within the scope of the authorisation, we submit that the strength of the AHA members’ bargaining power is increased, particularly where that member provides its own in-room entertainment/broadcasting services (e.g. movies, free-to-air channels etc). In addition, only selecting a subgroup of suppliers to whom the collective bargaining authorisation is directed (e.g. FOXTEL Management Pty Ltd is not included in the list of service providers to as set out section 5.8 of the Draft Determination) could have a substantial detrimental, anti-competitive impact on the market in which those separate services are provided.

AUSTAR strongly urges the ACCC to take these matters into consideration prior to finalising its Final Determination on the AHA’s application.

Should you have any questions, do not hesitate to my colleague, Alison Shilkin on (02) 9295 0126.

Yours sincerely

**Deanne Weir**  
Group Director, Corporate Development  
AUSTAR Entertainment Pty Ltd