



**Australian
Competition &
Consumer
Commission**

Our Ref: 52026
Contact Officer: Hannah Ransom
Contact Phone: (02) 6243 1255

GPO Box 3131
Canberra ACT 2601

23 Marcus Clarke Street
Canberra ACT 2601

tel: (02) 6243 1111
fax: (02) 6243 1199

www.accc.gov.au

11 September 2013

By email

Dear Sir or Madam,

Clubs Australia application for authorisation A91381 - interim authorisation decision

The Australian Competition and Consumer Commission (the ACCC) has decided to grant interim authorisation to enable Clubs Australia to negotiate, and/or enter into contracts, on behalf of its current and future members, with suppliers of Automatic Teller Machines (ATMs). A copy of the ACCC's decision is attached.

Interim authorisation protects these arrangements from legal action under the relevant provisions of the *Competition and Consumer Act 2010* while the ACCC considers and evaluates the merits of the broader application.

Next steps

For your information, the next step in the process is for the ACCC to release a draft determination which will take account of any submissions from Clubs Australia and interested parties and will indicate the ACCC's preliminary views on the merits of the application. The ACCC will give both Clubs Australia and interested parties the opportunity to provide a further submission on the draft determination before the ACCC issues its final decision.

As noted in the attached decision, the ACCC may review its decision on interim authorisation at any time. In this regard the ACCC will reconsider this decision at the time of issuing its draft determination. The ACCC's decision in relation to interim authorisation should not be taken to be indicative of whether or not final authorisation will be granted by the ACCC.

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 Hannah Ransom on (02) 6243 1255.

Yours sincerely

David Hatfield
Director
Adjudication Branch



**Clubs Australia –
application for authorisation A91381
Interim authorisation decision
11 September 2013**

Decision

The Australian Competition and Consumer Commission (the ACCC) has granted interim authorisation to enable Clubs Australia to negotiate, and/or enter into contracts, on behalf of its current and future members, with suppliers of Automatic Teller Machines (ATMs).

The negotiations may relate to price, terms of supply, settlement discounts, product development, joint advertising and marketing, and/or distribution.

Interim authorisation commences immediately and remains in place until it is revoked or the date the ACCC's final determination comes into effect.

The application for authorisation

On 14 August 2013 Clubs Australia applied for authorisation to collectively bargain, and/or enter into contracts, on behalf of its current and future members, predominantly through the use of standard form contracts and direct negotiation, with various suppliers of goods and services, including ATM providers.

The authorisation process

Authorisation provides protection from legal action for conduct that may otherwise breach the competition provisions of the *Competition and Consumer Act 2010* (the Act). Broadly, the ACCC may grant authorisation if it is satisfied that the benefit to the public from the conduct outweighs any public detriment, including from a lessening of competition. The ACCC conducts a public consultation process to assist it to determine whether a proposed arrangement results in a net public benefit.

Interim authorisation

Pursuant to section 91 of the Act, the ACCC may grant interim authorisation at any time if the ACCC considers it appropriate to do so.

Clubs Australia requested interim authorisation on the basis that there is an urgent need for it to commence negotiations on behalf of its members as members are currently revising and renewing contracts with ATM providers to ensure they are compliant with the requirements of the *National Gambling Reform Act 2012* (Cth), which is scheduled to commence on 1 February 2014.

Consultation

Upon receipt of the application for authorisation, the ACCC invited submissions from interested parties in order to consider the request for interim authorisation. One ATM provider submitted that it did not object. No other submissions were provided regarding the interim authorisation request.

Further information in relation to the application for authorisation, including any public submissions received by the ACCC as this matter progresses, may be obtained from the ACCC's website www.accc.gov.au/authorisations.

Reasons for decision

In granting interim authorisation, the ACCC considers that there is benefit in allowing Clubs Australia to negotiate on behalf of its members in relation to the supply of ATMs given the likely efficiencies arising from collective, as opposed to individual, negotiations. The ACCC notes the urgency of negotiations given changes required to the operation of ATMs in clubs as a result of the commencement of the *Gambling Reform Act 2012* (Cth) in February 2014, specifically by introducing a \$250 per day ATM withdrawal limit for premises with gaming machines (excluding casinos). The ACCC considers detriment will be minimised by the voluntary nature of the negotiations for all parties, because any change to the status quo will only occur if it is in the interests of all parties to any negotiations. The ACCC notes that none of the ATM providers proposed as targets has objected to the request for interim authorisation, and that interim authorisation does not extend to negotiations with providers of other goods or services.

Reconsideration of interim authorisation

The ACCC may review the interim authorisation at any time. The ACCC's decision in relation to interim authorisation should not be taken to be indicative of whether or not the final authorisation will be granted.