



Lottery Agents Queensland Ltd – application for authorisation A91397 Interim authorisation decision 4 December 2013

Decision

The Australian Competition and Consumer Commission (the ACCC) has granted interim authorisation in respect of the application for authorisation lodged by Lottery Agents Queensland Ltd on 22 November 2013.

Interim authorisation is granted to enable Lottery Agents Queensland Ltd (LAQ) to continue to conduct negotiations on behalf of its members in relation to existing terms and conditions of agency agreements and arrangements with Golden Casket Lottery Corporation (Golden Casket). Interim authorisation does not cover the matters not currently included in agency agreements and matters currently unforeseen.

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

LAQ seeks re-authorisation for a period of five years to conduct negotiations on behalf of its members in relation to the terms and conditions of agency agreements and arrangements with Golden Casket Lottery Corporation, including amongst others, commissions, various fees and charges, and changes to the Agent's Manual.

Authorisation is also sought to negotiate matters not currently included in agency agreements and matters currently unforeseen. LAQ does not seek authorisation for members to take collective action in the form of boycotts or otherwise against Golden Casket as a means of strengthening their bargaining position.

The arrangements were previously authorised in 2003 (authorisation A90853) and re-authorised in 2008 (authorisation A91101). Authorisation A91101 is due to expire on 10 December 2013. The application for revocation and substitution seeks re-authorisation for these arrangements.

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

Section 91 of the Act allows the ACCC to grant interim authorisation without making a decision on the merits of the application.

Consultation

Upon receipt of the application for authorisation, the ACCC consulted Golden Casket, the target of the collective bargaining and hence the party likely to be most affected by the granting of interim authorisation. Golden Casket indicated that it did not have any concerns regarding granting of interim authorisation but raised concerns about the scope of the authorisation which includes negotiation in relation to matters currently not included in agency agreements and matters currently unforeseen.

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 the protection provided by interim authorisation will allow LAQ to continue negotiations that are currently on foot with Golden Casket, while the application for revocation and substitution is assessed. Hence, interim authorisation will not alter the status quo and is likely to have minimal impact on competition.

The ACCC has also taken into account that no objections have been raised to the application for interim authorisation.

Consistent with the ACCC's decisions in relation to other collective bargaining authorisation applications in relation to lotteries in recent years, the ACCC has excluded the negotiation of matters not currently included in agency agreements and matters currently unforeseen because the breadth of issues which may fall within this head of bargaining would give rise to an open ended level of potential public detriment.

Reconsideration of interim authorisation

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