



The Queensland Newsagents Federation – application for authorisation A91353 Interim authorisation decision 28 February 2013

DECISION

The Australian Competition and Consumer Commission (the ACCC) has granted interim authorisation in respect of an application for authorisation lodged by the Queensland Newsagents Federation (QNF) on 4 February 2013.

Interim authorisation is granted to enable the QNF and its members to commence collective negotiation with Tatts Group (including Golden Casket) in relation to the following matters:

- commission fees;
- handling fees;
- agency application fees;
- support services levies;
- freight charges;
- product ordering fees;
- equipment hire costs;
- retail image design and agency subsidy and insurances; and
- changes to the agent's manual.

This interim authorisation does not extend to authorising the QNF and its members to collectively negotiate:

- other issues that may arise from time to time that are currently unforeseen;
- the impact on current lottery agents when new agencies are proposed by Tatts Group;
- the conditions for new outlets; and
- fees that are paid only in relation to new outlets.

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

The QNF and its members seek authorisation to commence collective negotiations with Tatts Group (including Golden Casket) in relation to the following matters:

- commission fees;
- handling fees;
- agency application fees;
- support services levies;
- freight charges;
- product ordering fees;
- equipment hire costs;
- retail image design and agency subsidy and insurances;
- changes to the agent's manual;
- impact on current lottery agents when new agencies are proposed by Tatts Group; and
- other issues that may arise from time to time that are currently unforeseen.

This application is identical to the application for authorisation A91313 previously lodged by the QNF in June 2012 and withdrawn in August 2012.

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.

The QNF requested interim authorisation on the basis that it wishes to represent its members on a collective bargaining basis as soon as possible in dealings with Tatts Group.

CONSULTATION

Upon receipt of the application for authorisation, the ACCC invited submissions from interested parties in order to consider the request for interim authorisation.

The ACCC received a submission from Tatts Group opposing the authorisation application and the requested interim authorisation. Tatts Group indicated that it relied upon the submission made in relation to the QNF's application for authorisation A91313.

The ACCC also received a submission from the Lottery Agents Queensland, an alternative representative association for lottery agents in Queensland. The LAQ also opposes the authorisation application and request for interim authorisation.

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 QNF will provide an alternative method for newsagents to have their interests represented in negotiations with Tatts Group and reflected in the standard lottery agent agreement which is likely to result in a benefit to those agents. The QNF will also provide a means of collectively resolving issues that arise during the life of the agreement.
- Interim authorisation is unlikely to have a substantial impact on the status quo given that the current standard lottery agents agreement has recently been negotiated via collective bargaining.
- There is value in not unnecessarily delaying the QNF's ability to engage in collective representation of those of its members who consider there to be a benefit to the QNF engaging in ongoing negotiations with Tatts Group.
- The ACCC considers that any public detriment is likely to be limited by the exclusions to the interim authorisation and the fact that:
 - a. Queensland Gaming will continue to regulate most aspects of the retail supply of lottery products;
 - b. participation in the Collective Bargaining conduct is voluntary from the view of both Tatts Group and the QNF members; and
 - c. the application for authorisation does not seek authorisation of collective boycott activity.

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.