

# SHOPPING CENTRE

COUNCIL OF AUSTRALIA

12 May 2014

Ms Megan Cunningham  
Senior Project Officer, Adjudication Branch  
Australian Competition and Consumer Commission  
360 Elizabeth Street  
Melbourne VIC 3000

Dear Ms Cunningham,

## **ACCC Draft Determination Authorisation Number A91407**

I refer to the ACCC Draft Determination A91407, dated 1 May 2014, in respect of the application by the Australian Newsagents Federation (ANF) for collective bargaining with a range of suppliers, including shopping centre landlords. All of the shopping centre companies listed on page 14 (Attachment B) of the Draft Determination are members of the Shopping Centre Council of Australia (SCCA).

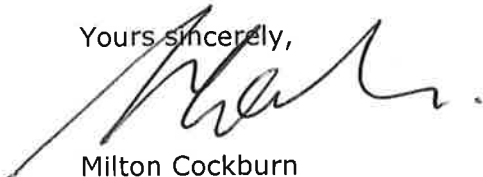
Our members are puzzled as to how the proposed collective negotiations with the Australian Newsagents Federation will occur. No substantial information has been provided by the ANF, despite our request for this information. We pointed out in our submission to the ACCC of 14 March 2014 that rents and lease conditions for newsagents within each member's portfolio will vary substantially from centre to centre, depending on a range of circumstances (demand for retail space, construction costs of the centre, foot traffic of the centre, degree of competition within and without the centre etc.) This is unlike, for example, the contracts which newsagents hold with a range of other suppliers (such as the distribution of newspapers and magazines or the sale of lottery tickets, where contracts and rates of commissions tend to be standardised).

It is not necessary to undertake collective bargaining to gain the 'transaction cost savings' identified by the ACCC, from "sharing information" and "professional assistance" (paragraph 21). This is information that can and should be routinely collected by an industry association on behalf of its members and supplied to those members to assist them in their lease negotiations and renegotiations. We made clear in our submission that our members have no objection to the ANF providing its members with professional assistance in their individual lease negotiations.

We find no comfort in the ACCC's statement that our members "may elect not to participate in the collective bargaining by the ANF" since collective bargaining arrangements are voluntary (paragraph 22). This could expose our members to public criticism that they are being uncooperative or obstructionist. In our view it also creates a poor precedent for the ACCC to authorise collective bargaining when so little information has been provided on how such collective negotiations would occur.

We therefore request a 'pre-decision conference' prior to the ACCC making a final determination on this matter.

Yours sincerely,



Milton Cockburn  
**Executive Director**

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