



Australian
Competition &
Consumer
Commission

Our Ref: 56316
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

21 May 2015

Mr Paul Holm
Andrews and Holm Lawyers

By email: paul.holm@ahlaw.com.au

Dear Mr Holm

**Authorisation A91472 lodged by Magazine Publishers of Australia –
request for information**

I refer to your client's application for authorisation lodged with the Australian Competition and Consumer Commission (the ACCC).

As you will recall, at the pre-decision conference held in relation to the application, the Magazine Publishers of Australia (MPA) committed to the Pilot being a 'fully transparent process' and that 'all data from the Pilot would be available to all parties.' On 28 April I wrote to you asking the MPA to explain the mechanisms for making the Pilot process transparent, and what data would be made available and to whom. In response you stated in a letter dated 5 May that the MPA would:

- share with the ACCC, for public dissemination, a copy of a report analysing the results of the pilot, to be produced by a data analytics company, and
- share the aggregate results with the Australian Newsagents Federation (ANF) and each store participating in the trial.

In response, interested parties have raised concerns that that the MPA's stated intentions are not consistent with the commitment to transparency it made at the pre-decision conference, and that, without access to raw data, stakeholders will be unable to confirm the results of the Pilot.

I consider that transparency of data from the Pilot is likely to be relevant to the ACCC's consideration of the benefits of the current application, given one of the benefits claimed by the MPA is that the results of the Pilot are intended to feed into the development of an industry-wide Code of Conduct, and will be used as a proof of concept to assist in getting stakeholder support for industry reforms. In this context it is likely to be important for all stakeholders (beyond MPA and ANF members) to have the necessary information to assess whether the proposed restrictions on distribution will address the problem of oversupply of magazines to newsagents.

In this context, for the purpose of clarity could you please indicate whether the MPA would be prepared to offer to provide to the ACCC, for public release:

- all raw data relating to the Pilot (in de-identified form if necessary)
- alongside the corresponding raw data, details (de-identified if necessary) of the specific restrictions to supply applied at each of the participating stores, to the extent this differs from the Distribution Rules as set out in Annexure B to the MPA's application (including the degree of input from each newsagent to selecting the range of titles, any changes to the minimum sales efficiencies applied, and any other changes or omissions to the Rules)

Additionally, could you please indicate whether the MPA would consider providing to the ACCC, on a confidential basis if necessary, the identifying details for each of the stores alongside the data, to enable the ACCC to seek feedback directly from participating stores should this prove necessary as part of its assessment of any future authorisation application for an industry-wide Code of Conduct.

I would note that as part of its decision whether to grant authorisation, the ACCC may consider whether to impose a condition in relation to transparency, to ensure sufficient public benefit results from the arrangements such that the ACCC can be satisfied that the likely public benefit outweighs the likely public detriment.

To assist the ACCC in progressing its assessment of the application in a timely manner, please provide a response by **COB 29 May 2015**. This letter has been placed on the ACCC's public register.

Should you have any queries in relation to this matter, please do not hesitate to contact Hannah Ransom on (02) 6243 1255.

Yours sincerely



Dr Richard Chadwick
General Manager
Adjudication Branch