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Paula Gilardoni
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Sent by email: PGilardoni@gtlaw.com.au
Cc: mrubinstein@gtlaw.com.au

Dear Ms Gilardoni

**Bendigo and Adelaide Bank & Others – applications for authorisation
(A91546 & A91547) – draft determination**

The Australian Competition and Consumer Commission (the ACCC) has issued a draft determination in respect of the applications for authorisation lodged by Bendigo and Adelaide Bank, the Commonwealth Bank of Australia, National Australia Bank, and Westpac Banking Corporation (the **Applicants**) on 26 July 2016.

Draft determination

A copy of the ACCC's draft determination and summary of its reasons is attached.

For the reasons set out in its draft determination, the ACCC proposes to deny authorisation.

Request for extension to be granted under section 90(10A)

Current statutory timeframe for the ACCC to make a final determination

The *Competition and Consumer Act 2010* (Act) provides that if the ACCC does not determine an application for authorisation within the relevant period, then it is taken to have granted the application at the end of that period.

The relevant period is six months beginning on the day the ACCC received the application. If a conference is called following the draft determination, the six month period is increased by the number of days between the ACCC receiving the request to hold a conference and seven days after the conference has finished.

Request to extend the statutory timeframe for the ACCC to make a final determination

On 7 September 2016, the Applicants requested an extension of time to provide a written submission to the ACCC and undertook to agree to an extension to the relevant period following the issue of a draft determination for the purposes of s.90(10A) of the *Competition and Consumer Act 2010*.

Section 90(10A) of the Act provides that the relevant period may be extended where:

- (a) the ACCC has prepared a draft determination under subsection 90A(1) in relation to the application; and
- (b) the ACCC determines in writing that the period is extended by a specified period of not more than six months; and
- (c) the applicant agrees to the period being so extended.

In accordance with subsection 90(10A)(b) of the Act, the ACCC has determined that the relevant period for consideration of the applications for authorisation has been extended by **three months**, subject to your agreement that the relevant period be so extended.

We seek confirmation of your agreement that the relevant period be extended by three months. We would appreciate receiving your confirmation in writing by **1 December 2016**. Your response may be emailed to adjudication@accg.gov.au.

Next steps

Once the ACCC issues a draft determination, the Applicant or any interested party may make a written submission and/or request that the ACCC convene a 'pre-decision conference'.

If you wish to make a submission in response to the ACCC's draft determination, please lodge your submission by **31 January 2017**.

A pre-decision conference provides the opportunity for interested parties to make oral submissions in relation to the draft determination. Conferences are conducted informally and while legal or professional advisers are able to attend they are not entitled to participate in the discussion.

If you wish the ACCC to hold a pre-decision conference in relation to the draft determination you must notify the ACCC in writing by **13 December 2016**.

If a pre-decision conference is called, it will be held at 11am AEST on **Friday 16 December 2016** in Melbourne (with video conference facilities available in some other capital cities).

The ACCC will consider any submissions it receives, including any oral submissions made should a pre-decision conference be called, and will then release a final determination in relation to these applications.

Submissions will be placed on the ACCC's public register subject to any request for exclusion. If you wish to exclude some or all of your submission from the public register, please see the ACCC's publication [Guidelines for excluding information from the public register](#).

Timetable

The ACCC will continue to progress its assessment of the applications in a timely manner. An updated indicative timetable is set out below for your information.

This timetable is predicated on the Applicants agreeing that the relevant period for consideration of the applications for authorisation be extended by three months.

Indicative date	Stage in assessment process
26 July 2016	Lodgement of applications and supporting submission
28 July 2016	Public consultation process begins
19 August 2016	ACCC decision regarding interim authorisation
29 November 2016	Draft determination
13 December 2016	Deadline to call pre-decision conference
16 December 2016	Pre-decision conference, if called
December 2016/January 2017	Public consultation on draft determination
March 2017	Final determination

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 me on (03) 9290 1973.

Yours sincerely



Lyn Camilleri
Director
Adjudication