



Final Determination

Application for authorisation AA1000494

lodged by

the Financial Services Council

in respect of

life insurance for healthcare workers with exposure to COVID-19

Authorisation number: AA1000494

16 July 2020

Commissioners: Rod Sims, Delia Rickard, Mick Keogh, Stephen Ridgeway

Summary

The ACCC grants conditional authorisation to enable the Financial Services Council (FSC), as well as the current and future life insurance members of the FSC that opt into the arrangement (the Participating Insurers), to enter into a commitment to ensure that healthcare workers are not denied life insurance, will not be charged higher premiums, and will not have benefits excluded, purely due to exposure or potential exposure to COVID-19.

The ACCC grants conditional authorisation solely for the purpose of dealing with the effects of COVID-19.

Interim authorisation was granted by the ACCC for the conduct to commence on 9 April 2020.

The ACCC received submissions that support allowing the Participating Insurers to enter into a commitment to support healthcare workers. Interested parties did not identify any public detriments, although it was suggested that the level of income protection cover may not be adequate for some healthcare workers. Overall, the ACCC considers that there are likely to be public benefits from the conduct that outweigh any likely detriments.

Participating Insurers will be free to independently offer life insurance on better terms than the terms provided by the commitment.

The ACCC grants authorisation subject to conditions that require Participating Insurers to notify the ACCC when they opt in or out of the conduct, and that require FSC and Participating Insurers to provide information regarding the conduct to the ACCC on request.

The ACCC grants conditional authorisation until 31 July 2021.

This determination is made on 16 July 2020. If no application for review of the determination is made to the Australian Competition Tribunal, the authorisation will come into force on 7 August 2020.

1. The application for authorisation

- 1.1. On 6 April 2020, the Financial Services Council (**FSC**) lodged application for authorisation AA1000494 with the Australian Competition and Consumer Commission (the **ACCC**), on behalf of itself and its current member life insurance companies (collectively, the **Applicants**).¹
- 1.2. The Applicants are seeking authorisation for the following parties to engage in the Conduct:
 - FSC, and
 - those life insurance companies that are current or future members of FSC, and that opt into the Conduct (the **Participating Insurers**).
- 1.3. This application for authorisation was made under subsection 88(1) of the *Competition and Consumer Act 2010* (Cth) (the **Act**).

¹ FSC is a peak body which sets mandatory standards and develops policy for its member companies in Australia's financial services industries. FSC's full member companies represent Australia's retail and wholesale funds management businesses, superannuation funds, life insurers, and financial advisory networks, amongst others.

- 1.4. The ACCC may grant authorisation which provides businesses with legal protection for arrangements that may otherwise risk breaching competition law but are not harmful to competition and/or are likely to result in overall public benefits.
- 1.5. The Applicants also requested interim authorisation to enable FSC and the Participating Insurers to engage in the Conduct while the ACCC is considering the substantive application. On 9 April 2020, the ACCC urgently granted interim authorisation under section 91(2) of the Act, due to the unprecedented circumstances being faced by healthcare workers. Interim authorisation will remain in effect until it is revoked, the substantive authorisation comes into force, or the application for authorisation is withdrawn.

The Conduct

- 1.6. The Applicants are seeking authorisation to discuss, agree, and give effect to a commitment that, for relevant healthcare workers, exposure or potential exposure to COVID-19 will not of itself be used to:
 - (a) decline an application for cover
 - (b) charge a higher premium, or
 - (c) apply a COVID-19 pandemic risk exclusion to any of the benefits offered.

(the **Conduct**)
- 1.7. The Applicants advise the following in respect of the Conduct:
 - (a) the commitment applies to new underwritten applications for individual life insurance benefits up to the specified financial limits for relevant healthcare workers
 - (b) the normal underwriting process and rules will apply to individuals for health conditions unrelated to COVID-19, and
 - (c) individuals who have tested positive for COVID-19, or who are waiting for a test result, will not be immediately eligible for cover.
- 1.8. The Applicants advise that the Conduct applies to the total amounts of cover the healthcare worker would have, including both the cover being applied for any existing individual, and group insurance cover with all life insurers in aggregate, up to the following amounts:
 - (a) \$750,000 of lump sum death cover.
 - (b) \$500,000 of total permanent disability cover.
 - (c) \$200,000 of trauma and/or critical illness cover.
 - (d) \$4,000 a month in total of any combination of income protection, salary continuance or business expenses cover.
- 1.9. The Applicants advise that relevant healthcare workers covered by the Conduct include, but are not limited to, people working in any capacity in Australia, in any of the following roles:
 - doctors, nurses and all hospital workers
 - ambulance workers and paramedics

- people working at a GP Surgery or Clinic
 - workers at a COVID-19 testing site
 - people providing mental healthcare services
 - workers developing a COVID-19 vaccine or treatment
 - pharmacists
 - police
 - aged care workers, and
 - volunteers helping to support people with COVID-19.
- 1.10. The Applicants note that nothing in the application for authorisation or the Conduct prevents any Participating Insurer from providing additional cover in excess of the above.
- 1.11. The Applicants also note that implementation of the Conduct is not mandatory for any Participating Insurer, and that Participating Insurers would be able to opt in or out of the Conduct at any point during the period of the authorisation.
- 1.12. The Applicants propose to engage in the Conduct until at least 1 July 2020. The Applicants have sought authorisation for 12 months from the date of final authorisation to cover any need to continue the Conduct, for example should the COVID-19 pandemic continue.

2. Background

- 2.1. On 11 March 2020, the World Health Organisation declared COVID-19 a global pandemic. As Australia continues to address the broad, varied and evolving impact of COVID-19, healthcare workers continue to engage in the detection and management of persons diagnosed with COVID-19. The application for authorisation was made in response to concerns that some life insurance companies would raise premiums or develop exclusions for healthcare workers due to their higher risk of exposure to COVID-19.
- 2.2. Insurance companies determine the scope of their policies and calculate policy premiums based on an assessment of different factors. For life insurance products, this assessment is based on data in relation to identified risk variables, such as the policyholder's age, general health condition, occupation and lifestyle. The outbreak of the COVID-19 pandemic resulted in an additional risk variable for insurance companies to consider in their assessment.
- 2.3. The lack of historical data on the impact of COVID-19 on people's health means that there is greater uncertainty for life insurance companies in assessing the risk of morbidity and death. In addition, there is uncertainty as to the extent that COVID-19 is likely to impact the Australian economy and health system.
- 2.4. On 27 March 2020, the Australian Broadcasting Corporation reported that one of Australia's biggest life insurers had begun adding an exclusion clause for COVID-19 in new insurance policies.² This exclusion was intended to apply to healthcare workers. Once some life insurance companies start to add exclusion clauses for higher risk

² 'Insurance giant TAL moves to exclude people who die from COVID-19, leaked policy reveals', Pat McGrath, ABC Online, posted 29 March 2020, updated 6 April 2020, URL <<https://www.abc.net.au/news/2020-03-27/insurer-tal-moves-to-exclude-people-who-die-from-covid-19/12093542>>

customers, this creates an incentive for others to do the same to avoid assuming too much risk relative to their competitors. This could adversely affect the ability of healthcare workers to acquire life insurance policies.

- 2.5. The objective of the Conduct is to avoid this scenario through a significant number of life insurers in the industry committing to offer life insurance to healthcare workers on the same terms as previous to the COVID-19 pandemic. From the insurers' perspective, this is designed to give comfort to Participating Insurers that the risk of insuring healthcare workers is spread across multiple insurers. From healthcare workers' perspective, this is designed to reduce the likelihood that their ability to obtain life insurance premiums is adversely affected by COVID-19.

3. Consultation

- 3.1. A public consultation process informs the ACCC's assessment of the likely public benefits and detriments from the Conduct.
- 3.2. The ACCC invited submissions from a range of potentially interested parties including insurers, customers, relevant industry associations or peak bodies, consumer groups, federal government and relevant regulatory bodies.³ The ACCC received 12 submissions from interested parties and the Applicants before the Draft Determination, and 2 submissions from interested parties following the Draft Determination. Public submissions by the Applicants and interested parties are on the ACCC's Public Register for this matter.
- 3.3. All submissions received in relation to the FSC's application for authorisation were generally supportive of the Conduct. A number of FSC's members submit that they have implemented policy changes in alignment with the commitment, including by developing guidelines for underwriters to ensure compliance with the commitment, and are continuing their normal underwriting processes.
- 3.4. A number of parties submit that they have not made any changes as a result of the commitment as their existing underwriting policies covered the minimum terms of the Conduct prior to its implementation.
- 3.5. NobleOak Life Limited (**NobleOak**) submits that it has seen an increase in new applications for life insurance and a decrease in cancellations of life insurance cover, but these changes were spread across all consumer groups.
- 3.6. MLC Life Insurance (**MLC**) submits that it had received a relatively low number of new applications for life insurance from healthcare workers since the ACCC granted interim authorisation, but that the participation of other insurers in the Conduct helped to spread any risk across multiple insurers.
- 3.7. TAL Life Limited (**TAL**) submits that life insurance companies continue to compete on additional terms beyond those agreed as part of the Conduct.
- 3.8. Allied Health Professions Australia (**AHPA**) provided general support for the interim authorisation and substantive application for authorisation. In regard to the FSC's list of 'relevant healthcare workers', AHPA suggests expanding this list to include disability services, as well as people working at various medical clinics, including Aboriginal Community Controlled Medical Services, the Royal Flying Doctor Service, Nurse Practitioner clinics, and any other primary care practices which may be engaged in the detection and/or management of persons diagnosed with COVID-19.

³ A list of public submissions received is available from the ACCC's public register www.accc.gov.au/authorisationsregister

3.9. The Association of Financial Advisers (**AFA**) raised a number of points, including:

- By allowing higher risk individuals to obtain life insurance without raising premiums, lower risk individuals may be forced to pay higher premiums in the long term to offset any losses incurred as a result of claims made by those higher risk individuals.
- The Conduct notes that in calculating the caps on the levels of insurance cover allowed, any other insurance policies that the customer holds will be taken into account. This may raise privacy concerns if customers are forced to disclose insurance products they hold with other companies.
- The cap on the level of income protection cover is a monthly benefit of \$4,000. When adjusted for the standard benefit maximum being 75% of the policy holders current income annualised, this cap only covers persons with an annual income up to \$64,000. This level of cover limit may not be adequate for higher paid healthcare workers, such as surgeons.

Submission from FSC

3.10. The ACCC invited FSC to make a submission to respond to the concerns raised in the course of the consultation process. FSC made a submission to the ACCC on 11 June 2020, in which FSC responded to the concern that the terms under the Conduct may become the industry standard.

3.11. FSC submits that the Conduct does not include any cap but is instead a commitment to a minimum standard of cover, which does not include any commitment in respect of pricing. FSC also submits that the Conduct is intentionally limited in scope and applies only to healthcare workers seeking new/additional cover. FSC commented that it is aware that at least one insurer (NobleOak) is providing more than the commitment minimum in relation to new policies.

3.12. FSC submits that the \$750,000 minimum threshold is significantly in excess of the average Australian's life insurance coverage and that in the absence of the Conduct, there would likely be lower level of life insurance coverage.

Submissions in response to the draft determination

3.13. In response to the draft determination issued on 17 June 2020, the ACCC received submissions from the Financial Planning Association of Australia (**FPAA**) and the Royal Australian College of General Practitioners (**RACGP**).

3.14. The FPAA provided high level support for the draft determination.

3.15. The RACGP welcomed the commitment by Participating Insurers. The RACGP submits that the Conduct may help relieve a number of pressures on general practitioners that have resulted from COVID-19, including restricted billing practices, patient hesitation to see a doctor and the proliferation of "pop-up" health services.

3.16. The RACGP noted several reservations, namely that insurers may opt-out as the Conduct is voluntary, that insurers may impose additional constraints after authorisation expires in 12 months' time and that the minimum commitment on income protection cover is unlikely to be sufficient for general practitioners and other medical and health professionals. However, the RACGP noted that notwithstanding these issues, the RACGP considers that the Conduct is likely to result in a public benefit that would outweigh any likely detriment to the public.

4. ACCC assessment

- 4.1. The ACCC's assessment of the Conduct is carried out in accordance with the relevant authorisation test contained in the Act.
- 4.2. The Applicants have sought authorisation for conduct that would or might constitute a cartel provision within the meaning of Division 1 of Part IV of the Act, and may substantially lessen competition within the meaning of section 45 of the Act.
- 4.3. Consistent with subsections 90(7) and 90(8) of the Act, the ACCC must not grant authorisation unless it is satisfied that, in all the circumstances, the conduct would result or be likely to result in a benefit to the public, and the benefit would outweigh the detriment to the public that would be likely to result (**authorisation test**).

Relevant area of Competition

- 4.4. To assess the likely effect of the Conduct, the ACCC will identify the relevant areas of competition likely to be impacted.
- 4.5. The ACCC considers that the relevant area of competition likely to be affected by the Conduct is the supply of life insurance.

Future with and without the Conduct

- 4.6. In applying the authorisation test, the ACCC compares the likely future with the Conduct that is the subject of the authorisation to the likely future in which the Conduct does not occur.
- 4.7. Based on information available at the time the ACCC made the decision to grant interim authorisation, which includes the media report mentioned in paragraph 2.4, the ACCC was of the view that it was highly likely that at least some life insurance companies would cease offering new life insurance to healthcare workers if the authorisation was not granted.
- 4.8. Given the continued uncertainty surrounding the pandemic, the ACCC considers that there remains a risk that, in the absence of the Conduct, some life insurance companies may apply exclusions and refuse to offer life insurance products to healthcare workers. This is likely to adversely affect the availability of life insurance products to healthcare workers.

Public benefits

- 4.9. The Act does not define what constitutes a public benefit. The ACCC adopts a broad approach. This is consistent with the Australian Competition Tribunal (the **Tribunal**) which has stated that the term should be given its widest possible meaning, and includes:

...anything of value to the community generally, any contribution to the aims pursued by society including as one of its principal elements ... the achievement of the economic goals of efficiency and progress.⁴

- 4.10. The ACCC has considered the following public benefits:

- increasing the likelihood of relevant life insurance offers being made available

⁴ *Queensland Co-operative Milling Association Ltd* (1976) ATPR 40-012 at 17,242; cited with approval in *Re 7-Eleven Stores* (1994) ATPR 41-357 at 42,677.

- providing assurance that life insurance will be available to healthcare workers
- allowing for consistent messaging and communication to consumers, and
- minimising increases to new policy premiums for healthcare workers while insurers obtain more data about COVID-19.

Increasing the likelihood of life insurance offers being made available

- 4.11. The Applicants submit that the Conduct provides a public benefit by increasing the likelihood of relevant life insurance offers being made available, providing healthcare workers with greater choice and the ability to find a life insurance policy that suits their needs.
- 4.12. The ACCC considers that the Conduct may result in more offers for life insurance than in the absence of the Conduct. That is, life insurance companies that may cease offering their policies or apply exclusions for healthcare workers (to subsequently reduce demand for their life insurance products) are less likely to do so as a result of the Conduct, resulting in a benefit for healthcare workers seeking new insurance policies.
- 4.13. For example, MLC submits that they are more confident in providing life insurance coverage in accordance with the Conduct because the participation of other insurers helps mitigate the risk of adverse selection.
- 4.14. The ACCC considers that ensuring that healthcare workers are not adversely affected in being able to acquire a new life insurance policy is a substantial public benefit arising as a result of the Conduct.

Providing assurance that life insurance will be available to healthcare workers

- 4.15. The Applicants submit that the Conduct provides a public benefit by providing assurances to healthcare workers seeking new life insurance policies that they will be able to access life insurance without increased premiums or exclusions, despite their increased risk of exposure to COVID-19, allowing them to continue to test, treat, and manage persons with COVID-19 with confidence.
- 4.16. In addition, NobleOak and TAL submit that the Conduct gives healthcare workers confidence that they can access the life insurance coverage they need. The RACGP also submits that the Conduct may relieve pressures faced by general practitioners as a result of the COVID-19 pandemic.
- 4.17. The ACCC considers that this likely increased assurance to healthcare workers is a public benefit.

Allowing for consistent messaging and communication to consumers

- 4.18. The Applicants submit that the Conduct provides a public benefit by allowing consistent messaging and communication to customers. All Participating Insurers are able to engage in collective messaging and communication campaigns to provide information on the eligibility, availability and accessibility of life insurance policies for healthcare workers.
- 4.19. This collective messaging and communication allows Participating Insurers to more effectively realise the benefit of providing assurance to healthcare workers that life insurance products will continue to be available to them.

Minimising increases to new policy premiums for healthcare workers while insurers obtain more data about COVID-19

- 4.20. As discussed at paragraph 2.3, COVID-19 is new and there is a lack of data on how widespread it is likely to be and its impact on people's health. This means that it is more difficult for life insurance companies to appropriately price the risk associated with COVID-19. In the absence of the Conduct, this could result in life insurance companies increasing premiums of life insurance policies to healthcare workers to protect against this uncertainty.
- 4.21. Under the Conduct, Participating Insurers commit not to charge healthcare workers a higher premium for the duration of the authorisation. This will allow life insurance companies time to collect more data to more accurately assess the risk profile of providing life insurance to healthcare workers. This data will likely allow life insurance companies to more accurately price and set terms and conditions of life insurance products in the future with reference to potential mortality and morbidity rates of COVID-19, as they currently do with many other health conditions.
- 4.22. The ACCC considers that in the short-term, there is a public benefit arising from the commitment by Participating Insurers not to charge healthcare workers higher premiums.

ACCC conclusion on public benefit

- 4.23. The ACCC considers that the Conduct is likely to result in public benefits by:
- increasing the likelihood of relevant life insurance offers being made available
 - providing assurance that life insurance will be available to healthcare workers
 - allowing for consistent messaging and communication to consumers, and
 - minimising increases to new policy premiums for healthcare workers while insurers obtain more data about COVID-19.

Public detriments

- 4.24. The Act does not define what constitutes a public detriment. The ACCC adopts a broad approach. This is consistent with the Tribunal which has defined it as:

...any impairment to the community generally, any harm or damage to the aims pursued by the society including as one of its principal elements the achievement of the goal of economic efficiency.⁵

- 4.25. The ACCC considers the Conduct is likely to result in minimal, if any, public detriments. The ACCC has specifically considered the risk of the following public detriments:
- the Conduct results in lower life insurance cover for some healthcare workers
 - insuring high risk individuals without increasing premiums may lead to higher premiums for lower risk policyholders in the long-term, and
 - individuals may be required to disclose more personal information than usual in order for life insurers to implement the Conduct.

⁵ Re 7-Eleven Stores (1994) ATPR 41-357 at 42,683.

Lower life insurance cover for some healthcare workers

- 4.26. The ACCC considers that there is a risk that the Conduct, and in particular the aggregated caps for lump sum death cover, total permanent disability cover, trauma and/or critical illness cover, and income protection, will become the default for new life insurance offers for healthcare workers.
- 4.27. In other words, life insurers who are currently offering life insurance to healthcare workers on terms that are more beneficial to the healthcare worker may choose to retract those offers, and instead only offer life insurance in terms that accord with the Conduct. The caps proposed by the Applicants may therefore become a point around which life insurance offers to healthcare workers stabilise.
- 4.28. If this were to occur, this may result in two public detriments:
- certain healthcare workers (those who would have taken up more beneficial offers) may be deprived of life insurance on terms that they would otherwise have been able to get, and
 - competition between life insurers to offer coverage to healthcare workers may be weakened, as life insurers coalesce around a common standard offer.
- 4.29. The Applicants submit that nothing in their application for authorisation prevents any Participating Insurer from providing additional coverage in excess of that contemplated by the Conduct. For example, NobleOak submits that it has policies that offer greater benefits than the minimum terms set out in the Conduct and that it is continuing to apply its standard underwriting processes and rules and has not implemented any changes in response to the Conduct. In addition, TAL submits that, having committed to ensuring that healthcare workers obtain access to life insurance, it continues to compete through additional terms in its life insurance policies.

Insuring high risk individuals without increasing premiums may lead to higher premiums for lower risk policyholders in the long-term

- 4.30. As set out in paragraph 3.9, AFA submits that by allowing higher risk individuals to obtain life insurance without raising premiums, lower risk individuals may be forced to pay higher premiums in the long-term to offset any losses incurred as a result of claims made by those higher risk individuals.
- 4.31. Based on available information, the ACCC considers that the potential detriment raised by AFA appears to be low because the Conduct is authorised for a short period of time, the total pool of insurance policyholders is large relative to those affected by the Conduct (being only those healthcare workers seeking to obtain new life insurance policies) and the incidence of COVID-19 in Australia to date has been relatively low, both in terms of the spread and impact on health.
- 4.32. On this basis, the ACCC considers that the impact of the Conduct on any individual customer's insurance premium is likely to be minimal.

Individuals may be required to disclose more personal information than usual in order for life insurers to implement the Conduct

- 4.33. As set out in paragraph 3.9, AFA submits that since the caps on levels of insurance are aggregated and take into account any other insurance that an individual may hold, this may represent a privacy issue as the relevant life insurer could end up obtaining information on products that the individual holds with other life insurers.

4.34. The ACCC understands that at the time of issuing an insurance policy and in the course of processing claims, insurers obtain personal information from policyholders. The ACCC considers that there is unlikely to be material public detriment as a result of Participating Insurers seeking disclosure of the benefits obtained under other insurance policies held by a policyholder for the purpose of processing the policyholder's claim.

General comments on public detriment

4.35. In addition, the ACCC considers that any possible public detriments are further mitigated by the fact that the Conduct:

- is a temporary measure
- is voluntary in nature
- does not extend to insurers or brokers discussing the premiums or terms for new policies beyond the terms outlined in the commitment, and
- enables Participating Insurers to independently offer terms and conditions to customers seeking life insurance above the terms provided by the Conduct.

4.36. This is supported by the fact that a number of Participating Insurers submit that their usual underwriting processes have not changed as a result of the Conduct.

4.37. The authorisation will be subject to the conditions set out in paragraph 7.3 below, to ensure that the ACCC is aware which insurers are engaging in the Conduct and is able to seek information from FSC or the Participating Insurers should any concerns arise in relation to the Conduct.

Balance of public benefit and detriment

4.38. For the reasons outlined in this determination, the ACCC is satisfied that the Conduct is likely to result in a public benefit and that this public benefit would outweigh any likely detriment to the public from the Conduct.

Length of authorisation

4.39. The Act allows the ACCC to grant authorisation for a limited period of time.⁶ This enables the ACCC to be in a position to be satisfied that the likely public benefits will outweigh the detriment for the period of authorisation. It also enables the ACCC to review the authorisation, and the public benefits and detriments that have resulted, after an appropriate period.

4.40. The ACCC grants conditional authorisation until 31 July 2021.

4.41. As time goes by, more information becomes available about the likelihood of the spread of COVID-19 in Australia and its likely impact on people's health, diminishing the magnitude of the public benefits set out earlier in relation to the authorisation. The ACCC considers that by the time the authorisation expires, life insurance companies should have sufficient understanding of these matters, allowing them to more accurately assess the risk of insuring the relevant categories of customers in the future.

⁶ Subsection 91(1) of the Act.

5. Final determination

The application

- 5.1. On 6 April 2020, the Applicants lodged application AA1000494 with the ACCC, seeking authorisation under subsection 88(1) of the Act.
- 5.2. The Applicants seek authorisation for the Conduct. Subsection 90A(1) of the Act requires that before determining an application for authorisation, the ACCC shall prepare a draft determination.
- 5.3. The ACCC issued a draft determination on 17 June 2020.

The authorisation test

- 5.4. Under subsections 90(7) and 90(8) of the Act, the ACCC must not grant authorisation unless it is satisfied in all the circumstances that the Conduct is likely to result in a benefit to the public and the benefit would outweigh the detriment to the public that would be likely to result from the Conduct.
- 5.5. For the reasons outlined in this determination, the ACCC is satisfied that, in all the circumstances, the Conduct would be likely to result in a benefit to the public and the benefit to the public would outweigh the detriment to the public that would result or be likely to result from the Conduct, including any lessening of competition.
- 5.6. Accordingly, the ACCC grants authorisation subject to the conditions at paragraph 7.3.

Conduct which the ACCC authorises

- 5.7. The ACCC grants conditional authorisation AA1000494 to enable FSC and Participating Insurers, including any future members of the FSC that opt into the arrangement (as defined at paragraph 1.2)⁷ to engage in the Conduct, as described in paragraphs 1.6-1.11.
- 5.8. The Conduct does not preclude Participating Insurers from individually deciding to offer life insurance cover on more favourable terms to customers. The Conduct also does not place any limitation on the price that Participating Insurers can charge for their products (other than in the context of any particular offer a healthcare worker does not face additional premiums by reason of potentially increased exposure to COVID-19).
- 5.9. The ACCC grants conditional authorisation for the Conduct only in so far as it is for the sole purpose of ensuring Australian healthcare workers seeking to obtain a new life insurance policy are not adversely impacted due to the outbreak of COVID-19.
- 5.10. The Conduct may involve a cartel provision within the meaning of Division 1 of Part IV of the Act or may have the purpose or effect of substantially lessening competition within the meaning of section 45 of the Act.
- 5.11. The ACCC grants conditional authorisation AA1000494 until 31 July 2021, subject to the conditions discussed below.

⁷ Subsection 88(2) of the Act.

6. Interim Authorisation

6.1. On 9 April 2020, interim authorisation was granted under subsection 91(2) of the Act. Interim authorisation will remain in place until the date the ACCC's final determination comes into effect or until the ACCC decides to revoke interim authorisation.

7. Conditions

7.1. The ACCC may specify conditions in an authorisation.⁸ The legal protection provided by the authorisation does not apply if any of the conditions are not complied with.⁹

7.2. The ACCC may specify conditions in circumstances where, although the relevant public benefit test is met, without the conditions the ACCC would not be prepared to exercise its discretion in favour of the authorisation.¹⁰

7.3. In this instance, the ACCC grants authorisation subject to the following conditions:

Condition 1 – provision of information to the ACCC on request

- FSC and any Participating Insurer must provide information the ACCC requests in relation to the Conduct in a timely manner (including by making available appropriate representatives to provide information, if requested by the ACCC).

Condition 2 – notification of participation in the Conduct

- The Participating Insurer must notify the ACCC within 10 business days after it chooses to opt into, or opt out of, the Conduct.

8. Date authorisation comes into effect

8.1. This determination is made on 16 July 2020. If no application for review of the determination is made to the Australian Competition Tribunal, the authorisation will come into force on 7 August 2020.

⁸ Section 88(3) of the Act.

⁹ Section 88(3) of the Act.

¹⁰ Application by Medicines Australia Inc (2007) ATPR 42-164 at [133].