



**Scentre Group and Shopping Centre Council of Australia –
Application for authorisation AA1000489
Revocation of interim authorisation
19 May 2020**

Decision

1. The Australian Competition and Consumer Commission (the **ACCC**) has revoked the interim authorisation granted on 3 April 2020 in respect of the application for authorisation AA1000489, lodged by Scentre Group and the Shopping Centre Council of Australia (the **Applicants**) on 2 April 2020.
2. The ACCC granted conditional interim authorisation to enable the Applicants to discuss, share information, and agree and give effect to contracts, arrangements or understandings to benefit their SME tenants, which have the purpose of providing rent relief to SME tenants, including through the deferment or amelioration of the payments of rents and other payments which tenants might otherwise be obliged to pay to SCCA members (the **Proposed Conduct**). The condition required the Applicants to notify the ACCC of any proposed rent relief measures not less than 24 hours before the measures were implemented.
3. The interim authorisation is revoked under section 91(2AB) of the Competition and Consumer Act 2010, and ceases to be in effect from 19 May 2020.
4. The Applicants have withdrawn their application for authorisation. A letter from the Applicants advising the ACCC of this withdrawal is available on the [public register](#).

The application for authorisation

5. The Applicants are:
 - Scentre Group
 - Shopping Centre Council of Australia on behalf of itself and its members (**SCCA**, see list of members in **Annexure A**).
6. The Applicants sought authorisation for twelve months from the ACCC's grant of final authorisation.
7. The Applicants submitted that authorisation of the Proposed Conduct would permit SCCA Members to discuss and work together during the period of the authorisation to:
 - discuss and share information regarding the financial difficulties their tenants are facing and which tenants or classes of tenants would benefit most from relief and the nature of the relief that might be offered,
 - provisionally enter into agreements as to the nature of the relief which might be offered to these tenants, or classes of tenants, by SCCA members, and
 - to give effect to those agreements (subject to the notification procedures).

8. The notification procedures required the Applicants to advise the ACCC of the relief measures proposed, before being implemented.

The authorisation process

9. Authorisation provides protection from legal action for conduct that may otherwise breach the competition provisions of the *Competition and Consumer Act 2010* (Cth) (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

10. The ACCC may, where it considers it appropriate, grant an interim authorisation which allows parties to engage in proposed conduct while the ACCC is considering the substantive application.
11. The ACCC can revoke interim authorisation at any time.

Consultation

12. The ACCC conducted a public consultation process following the urgent decision to grant urgent interim authorisation to the Applicants. Public submissions received by the ACCC are available on the ACCC's [public register](#).
13. The ACCC has not conducted a public consultation process in respect of the decision to revoke interim authorisation

Applicants withdrawal of application

14. The Applicants submitted that in light of the National Cabinet's Mandatory Code of Conduct relating to retail rental relief (the **Code**), there was no longer a need for SCCA co-ordinated rent relief.¹ The Applicants' withdrawal letter is available on the ACCC's [public register](#).

Reasons for decision

15. The ACCC considers that it is appropriate to revoke the interim authorisation as a result of the change in circumstances following the granting of urgent interim authorisation on 3 April 2020. In particular:
 - the Applicants have submitted it is unlikely the SCCA will develop a coordinated response to SME rental relief under the interim authorisation, and they will instead focus on the Code as it is implemented in Australian states and territories, and
 - it would not be appropriate for the interim authorisation to remain in place while the Applicants have indicated they do not intend to develop a coordinated response under the interim authorisation.
16. The ACCC notes that the Applicants can re-apply for authorisation at any stage should they need to do so.

¹ National Cabinet Mandatory Code of Conduct: SME Commercial Leasing Principles During Covid-19

Shopping Council of Australia members

- Abacus Property
- AXA Investment Managers
- AMP Capital
- Blackstone
- Gateway
- Brookfield
- Challenger
- Charter Hall
- Dexus
- GPT Group
- ISPT
- Jen Retail Properties
- JLL
- Lancini Property & Development
- Lend Lease
- McConaghy Properties
- McConaghy Group
- Mirvac
- Perron Group
- Precision Group
- QIC
- Savills
- SCA Property Group
- Scentre Group
- Stockland
- Vicinity Centres