



Daniel McCracken-Hewson
 Australian Competition & Consumer Commission
 Level 17/2 Lonsdale Street
 Melbourne VIC 3000

By email: adjudication@accc.gov.au

Dear Daniel,

RE: AUTHORISATION NUMBER AA1000501-1

I write to you in support of the application lodged by the Australian Retailers Association (ARA) for authorisation to enable ARA members to “collectively negotiate with landlords regarding the rental support to be provided to retail tenants who are adversely impacted by COVID-19”.



Like many retailers in the fashion, footwear, and personal accessories sector, we have been badly affected by COVID-19. We have had to close █ of our stores while the balance that remain open are down between 60% and 75% and are operating on skeleton staffing with reduced hours. In normal times we are a seasonal business relying on summer trade and holiday periods, approximately 50% of our employees are casuals whom we have had no work for at all in recent weeks. Cashflow has all but dried up so I am prioritising paying our employees which means we don’t have much, if anything, left for suppliers and landlords.

Since the announcement of the Leasing Code of Conduct, I have started the negotiation process with our landlords. Some have been supportive and understanding. Others are in denial and are not wanting to engage in discussions. Many others have been difficult to deal with and are requiring Profit & Loss statements and sensitive business information as well as demanding the signing of Confidentiality Agreements.

As a retailer and a member of the ARA, I fully support the ARA’s application and requests. Once the government lifts the “self-distancing” requirements, we do not expect to return to any sort of normal trading pattern until at least 12 months after the COVID-19 epidemic. The ability to discuss with other tenants traffic flow of the centre, what other retailers within the clothing, footwear and personal accessories sector are experiencing would help understand the overall effect of COVID-19 on our business.

As a SME retailer we would like to be able to exchange information, and collectively negotiate with landlords regarding support to be provided by them, including the appropriate information to be exchanged with the landlord for that purpose.

Areas that we would need to discuss are, but not limited to:

- Falling vacancies within a shopping centre
- Falling customer counts
- Deteriorating trading conditions caused by COVID-19
- The position landlords have taken with respect to how they have applied and interpreted the code
- The size and form of rent reductions, including waivers and deferrals
- The efficiency of a landlord’s initiative to combat the impact of COVID-19, including as part of the recovery phase





Naturally I understand that negotiations must take into account the Code of Conduct announced by the Prime Minister on the 7th April 2020, which prescribes the good faith leasing principles applicable to negotiations between landlords and SME tenants.

As an SME retailer, many landlords, particularly Shopping Centres, are often difficult to negotiate with. Being able to collectively bargain would ensure we are on the same playing field as similar retailers and by rights ensure our continued viability. In turn that would also mean we are able to reengage our employees as we rebuild the business back to pre COVID-19 levels.

Yours sincerely,

