



**CONSUMERS  
FEDERATION  
OF AUSTRALIA**

Developing and promoting  
the consumer interest

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1 April 2020

**By email: [rod.sims@accc.gov.au](mailto:rod.sims@accc.gov.au); [adjudication@accc.gov.au](mailto:adjudication@accc.gov.au)**

Rod Sims  
Chair  
Australian Competition & Consumer Commission

Dear Rod

### **Authorisations supporting coordination between competitors**

We refer to the various applications for authorisation made by competitors to allow conduct ordinarily prohibited as a response to the COVID-19 pandemic.

The Consumers Federation of Australia considers that the authorisation regime in the *Competition & Consumer Act 2010* (Cth), with its focus on net public benefit, is an appropriate regime to enable business to work together to address important public interest issues. We also support it being used at this time when the economy is experiencing significant distress. We understand from your recent remarks that, in addition to the interim authorisations that have been made, the ACCC has received authorisation applications from all sectors of the economy.

However, we consider that there is need for public scrutiny about coordinated action, including through the involvement of consumer groups. This is important to maintain trust in the regime. As you have noted, in normal times, co-ordination leads to complacency, inefficiency and higher prices. While we would hope that competitors maintain focus on the public interest at this time, there does remain a risk that coordination could facilitate some poor outcomes, for example, relating to access to essential services and/or increase in retail prices. It is also important that views are put forward about what else competitors could be doing to further the public interest at this time.

As such, we ask the ACCC to consider the views of consumer groups and interests in any ACCC consultations on authorisation decisions. We also consider that any coordinating forums which provide oversight of coordinating conduct involve or closely consult with consumer representatives.

For example, with respect to the interim authorisation made on 26 March 2020 relating to conduct by supermarkets, the determination notes some oversight of the outcomes of the proposed conduct by the supermarket taskforce, convened by the Department of Home Affairs. It is not clear to us whether this taskforce involves or is consulting with representatives of consumers.

As you know, consumer advocacy in Australia remains severely under-resourced. While some CFA members may have capacity to respond to consultations relevant to particular areas of interest or priority for them, we ask ACCC to seek out views of consumer groups if views are not forthcoming. CFA can assist with this. We also consider that the under-resourcing of consumer representatives must be immediately addressed to ensure that expert consumer representatives can provide the necessary input into these processes.

We ask that this letter be placed on the authorisation register of relevant authorisation applications.

I would be very happy to speak about this proposal further with you. I can be contacted via

[REDACTED] .

Yours sincerely,

[REDACTED]

**Gerard Brody**  
**Chair**  
**Consumers' Federation of Australia**