

Latest Legal Update: ACCC grants further industry-specific authorisations during Covid-19

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Abstract:

The Australian Competition and Consumer Commission (ACCC) has provided interim authorisation to the following industries as a result of COVID-19:

- 1. Insurance companies and brokers to cooperate on a range relief measures for eligible small businesses:** The authorisation applies to Suncorp, Allianz, and QBE Insurance as well as any other insurers or brokers who choose to take part, provided they notify the ACCC. Measures being promoted include deferred premium payments of up to six months and refunds of unused premiums. The ACCC's media release can be found [here](#).
- 2. Oil companies to co-operate to ensure fuel supplies during and after the pandemic:** The authorisation applies to arrangements between Australian Institute of Petroleum (AIP) members and suppliers of crude oil and refined fuels, importers, suppliers of storage facilities and trucking or delivery services and wholesalers. The interim authorisation does not allow fuel companies to coordinate prices, including retail and wholesale fuel prices and storage prices. The ACCC's media release can be found [here](#).
- 3. Medicine manufacturers to coordinate to support continued supply of essential medicines:** The authorisation applies to Medicines Australia (MA), the Generic and Biosimilar Medicines Associate (GBMA) and their members to work together to support the continued supply of essential medicines. The interim authorisation will allow members of both groups to identify and mitigate any supply chain issues that could impact availability of medicines. The interim authorisation is subject to a condition requiring MA to regularly update the ACCC regarding any material decisions and agreements in relation to the proposed conduct as the Covid-19 position evolves. The ACCC's media release can be found [here](#).
- 4. Energy market operators to cooperate to ensure reliable energy sector during pandemic:** The interim authorisation applies to the Australian Energy Market Operator Limited (AEMO) to allow gas and electricity participants to undertake measures, including those deemed necessary to minimise the risk of outages, and share resources to maintain and operate energy infrastructure and coordinate repairs and maintenance. It also allows AEMO to commence works on a set of pressing issues while the ACCC considers the application further. The authorisation does not allow parties to form any agreements about the wholesale or retail price of energy share or share confidential information on pricing or profits. Agreements under the authorisation cannot last longer than the Covid-19 pandemic. AEMO is seeking authorisation for broader conduct, which the ACCC will consider separately. The ACCC's media release can be found [here](#).
- 5. Shopping centres to cooperate to support retail tenants:** The interim authorisation will allow shopping centre owners and managers to discuss and implement rent relief measures for small to medium shopping centre tenants facing hardship as a result of the pandemic. Shopping centre owners and managers can jointly develop a plan to help their small business tenants, including franchisees and licensees, which has a turnover of up to \$50 million pa. The plan may include an offer to defer or reduce rents and other payments, waive interest payments and extend leases. The ACCC will be notified of the rent relief measures agreed to, which will be published on its authorisations register. The ACCC can object to any of the

proposed agreements and revoke the authorisation at any time. The ACCC's media release can be found [here](#).

- 6. Private and public hospitals to cooperate in Victoria and Queensland:** The separate authorisations allow private hospitals to cooperate with their state health agencies, public hospital and each other, as they prepare and respond to the pandemic. It is expected the authorisations will help boost capacity by integrating the operations of public and private hospitals by sharing and jointly procuring equipment, medicines and other resources, allocating patients between hospitals and sharing staff. Similar applications from other state governments are anticipated. The ACCC media release can be found [here](#).

The ACCC may grant authorisation if it is satisfied that the public benefit from the proposed conduct outweighs any likely public detriment. Further information can be found in the Exemptions sub-topic on [Authorisation](#).

For more information on authorisations that have already been granted in response to the Covid-19 pandemic, see Latest Legal Updates: [Co-ordination between competitors and COVID-19](#), [Airline coordination and COVID-19](#) and [ACCC authorises further industry cooperation](#).