

Retailers granted authorisation to collectively negotiate with landlords

22 April 2020

The ACCC has granted interim authorisation allowing retailers to collectively bargain with landlords about rent relief during the COVID-19 pandemic.

The interim authorisation, granted to the Australian Retailers Association and its current and future members, will also allow retailers to share information relevant to the negotiations including in relation to requests by landlords for certain information as part of considering and negotiating support to be provided in the context of COVID-19.

“We see a clear public benefit in allowing retailers to work together in the negotiations with landlords as it will help those tenants who are experiencing financial hardship during this pandemic to reach a fair outcome,” ACCC Chair Rod Sims said.

“We need to maintain strong competition in the retail sector and supporting these businesses will help with economic recovery once the pandemic subsides.”

The authorisation is voluntary and temporary, and does not include individual tenants exchanging information about the amount of their rent or any rent incentives they were previously granted.

It is planned that the proposed co-operation will have regard to the proposed mandatory Code of Conduct which sets out the good faith leasing principles applicable between landlords and small and medium shopping centre tenants.

“As with all of the temporary arrangements that industries are looking to implement as a means to deal with the COVID-19 issues they are facing, we will keep under consideration when they are no longer necessary,” Mr Sims said.

Having granted interim authorisation for the arrangements, the ACCC will now seek feedback on the application for final authorisation which is sought for a period of 12 months from the date of authorisation.

More information, including the ACCC’s interim authorisation decision, is available at [Australian Retailers Association](#).

Background

The Australian Retailers Association is Australia’s largest retail industry association and provides advice, education and advocacy for its approximately 7,500 members.

[On 3 April 2020](#) the ACCC granted interim authorisation allowing shopping centres to co-operate to support retail tenants financially impacted by COVID-19.

Notes to editors

ACCC authorisation provides statutory protection from court action for conduct that might otherwise raise concerns under the competition provisions of the Competition and Consumer Act 2010.

Section 91 of the Act allows the ACCC to grant interim authorisation when it considers it is appropriate. This allows the parties to engage in the proposed conduct while the ACCC is considering the merits of the substantive application.

The ACCC may review a decision on interim authorisation at any time, including in response to feedback raised following interim authorisation.

Broadly, the ACCC may grant a final authorisation when it is satisfied that the likely public benefit from the conduct outweighs any likely public detriment.

Release number:

77/20

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