



# Application for revocation of an authorisation for proposed conduct and substitution of a replacement

## Guidance in completing your application to the ACCC

The person to whom authorisation has been granted may apply to the ACCC to revoke the existing authorisation and substitute a new authorisation in its place (**revocation and substitution**).

To lodge an application for revocation and substitution for proposed conduct (other than mergers or acquisitions<sup>1</sup>) (the **application**), you should include the information, data and documents outlined in this form. Where possible, each question should be answered fully and be substantiated with evidence. If a question is not relevant or where information is not available and cannot be reasonably estimated, please provide a brief explanation.

The ACCC must not grant authorisation unless it is satisfied that the statutory test is met.

It is an offence to knowingly provide false or misleading information to the ACCC. Refer to section 137.1 of the *Criminal Code* (Cth).

### Key points for lodging your application

- We encourage you to consult the ACCC's [Guidelines for Authorisation of Conduct \(non-merger\)](#) and contact the ACCC at [exemptions@acc.gov.au](mailto:exemptions@acc.gov.au) before you lodge your application for a pre-lodgement discussion to clarify what information and evidence may be needed to assess your application.
- Failure to provide sufficient information may render the application invalid or otherwise impact the ACCC's ability to assess your application.
- You should provide all relevant information and evidence you intend to rely on.
- Less weight will likely be given to a statement or submission that is not supported with corroborating evidence.
- A valid application **must** contain:
  - a public version of your application for publication on the public register. You should provide a clearly marked confidential version if you wish to claim confidentiality for parts of your application. All confidentiality claims must be substantiated. The public version must contain sufficient information to enable public consultation on your application
  - a signed declaration by the applicant and o payment of the \$2500 lodgement fee.

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<sup>1</sup> See: [Application for authorisation of a proposed merger or acquisition](#).

# Information

## Applicants

1. Provide details of the applicants for revocation and substitution, including:
  - 1.1 name, address (registered office), telephone number, and ACN
  - 1.2 contact person's name, position, telephone number, and email address
  - 1.3 a description of business activities
  - 1.4 email address for service of documents in Australia.

## Authorisation to be revoked (the existing authorisation)

2. Provide details of the authorisation sought to be revoked including:
  - 2.1 the registration number and date of the authorisation which is to be revoked
  - 2.2 other persons and/or classes of persons who are a party to the authorisation which is to be revoked
  - 2.3 the basis for seeking revocation, for example because the conduct has changed or because the existing authorisation is due to expire.

## Authorisation to be substituted (the new authorisation)

3. If applicable, provide details of any other persons and/or classes of persons who also propose to engage, or become engaged, in the proposed conduct and on whose behalf authorisation is sought. Where relevant provide:
  - 3.1 name, address (registered office), telephone number, and ACN
  - 3.2. contact person's name, telephone number, and email address
  - 3.3 a description of business activities.

## The proposed conduct

4. Provide details of the proposed conduct, including:
  - 4.1 a description of the proposed conduct and any documents that detail the terms of the proposed conduct
  - 4.2 an outline of any changes to the conduct between the existing authorisation and the new authorisation
  - 4.3 the relevant provisions of the *Competition and Consumer Act 2010* (Cth) (the Act) which might apply to the proposed conduct, ie:
    - cartel conduct (Division 1 of Part IV)
    - contracts, arrangements or understandings that restrict dealings or affect competition (s. 45)
    - concerted practices (s. 45)
    - secondary boycotts (sections 45D, 45DA, 45DB, 45E, 45EA)
    - misuse of market power (s. 46)
    - exclusive dealing (s.47)
    - resale price maintenance (s. 48) and/or
    - a dual listed company arrangement (s. 49)

- 4.4 the rationale for the proposed conduct
  - 4.5 the term of authorisation sought and reasons for seeking this period.
5. Provide the name of persons, or classes of persons, who may be directly impacted by the proposed conduct (e.g. targets of a proposed collective bargaining arrangement; suppliers or acquirers of the relevant goods or services) and detail how or why they might be impacted.

## Market information and concentration

6. Describe the products and/or services, and the geographic areas, supplied by the applicants. Identify all products and services in which two or more parties to the proposed conduct overlap (compete with each other) or have a vertical relationship (e.g. supplier-customer).
7. Describe the relevant industry or industries. Where relevant, describe the sales process, the supply chains of any products or services involved, and the manufacturing process.
8. In respect of the overlapping products and/or services identified, provide estimated market shares for each of the parties where readily available.
9. In assessing an application for authorisation, the ACCC takes into account competition faced by the parties to the proposed conduct. Describe the factors that would limit or prevent any ability for the parties involved to raise prices, reduce quality or choice, reduce innovation, or coordinate rather than compete vigorously. For example, describe:
- 9.1 existing competitors
  - 9.2 likely entry by new competitors
  - 9.3 any countervailing power of customers and/or suppliers
  - 9.4 any other relevant factors.

## Public benefit

10. Describe the benefits to the public that are likely to result from the proposed conduct. Refer to the public benefit that resulted under the authorisation previously granted. Provide information, data, documents or other evidence relevant to the ACCC's assessment of the public benefits.

## Public detriment including any competition effects

11. Describe any detriments to the public likely to result from the proposed conduct, including those likely to result from any lessening of competition. Refer to the public detriment that may have resulted under the authorisation previously granted. Provide information, data, documents, or other evidence relevant to the ACCC's assessment of the detriments.

## Contact details of relevant market participants

12. Identify and/or provide names and, where possible, contact details (phone number and email address) for likely interested parties such as actual or potential competitors, customers and suppliers, trade or industry associations and regulators.

## Additional information

13. Provide any other information or documents you consider relevant to the ACCC's assessment of the proposed application.

## Declaration by Applicant(s)

Authorised persons of the applicant(s) must complete the following declaration. Where there are multiple applicants, a separate declaration should be completed by each applicant.

The undersigned declare that, to the best of their knowledge and belief, the information given in response to questions in this form is true, correct and complete, that complete copies of documents required by this form have been supplied, that all estimates are identified as such and are their best estimates of the underlying facts, and that all the opinions expressed are sincere.

The undersigned undertake(s) to advise the ACCC immediately of any material change in circumstances relating to the application.

The undersigned are aware that giving false or misleading information is a serious offence and are aware of the provisions of sections 137.1 and 149.1 of the *Criminal Code* (Cth).

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Signature of authorised person

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Office held

(Print) Name of authorised person

This [insert day] day of [insert month] [insert year]

*Note: If the Applicant is a corporation, state the position occupied in the corporation by the person signing. If signed by a solicitor on behalf of the Applicant, this fact must be stated.*