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26/11/2020

David Vaile
Chair
Australian Privacy Foundation

Via email: chair@privacy.org.au

Dear Mr Vaile

ARCA application for re-authorisation

As discussed with David Hatfield this morning, it has come to our attention that, on 30 October 2020, the Australian Competition and Consumer Commission (the **ACCC**) received a submission in relation to ARCA's application for re-authorisation from Australian Privacy Foundation (**APF**). However, due to an issue with the ACCC's IT system, the submission was not seen at the time by staff or Commissioners.

As a result, the ACCC proceeded to issue a final determination on 19 November 2020 which was to come into effect on 11 December 2020. However, because the ACCC is required by section 91C of the *Competition and Consumer Act 2010* to take into account all submissions received within the timeframe specified before making a final determination, and it did not do so here, the result is that reauthorisation will not come into effect on 11 December 2020.

We are immediately taking the following steps to address this issue:

- The ACCC will remove the 19 November 2020 'determination' document from its register and publish a short explanation of what has occurred.
- The ACCC will provide APF's submission to ARCA and other interested parties and place it on our register, and invite any responses by **Friday 4 December 2020**.
- The ACCC will take into account the APF submission and any responses received before making a decision whether to grant authorisation.

The ACCC will aim to make its determination in the week beginning **14 December 2020**.

The ACCC apologises for any inconvenience this has caused and is moving to address the issue as quickly as it can while providing procedural fairness to all parties. I also wish to assure you that we have implemented new processes that will avoid any recurrence of this problem.

This letter has been placed on the ACCC's public register. If you wish to discuss any aspect of this matter, please contact Jaime Martin on (03) 9290 1477, or via email at exemptions@acc.gov.au.

Yours sincerely

A handwritten signature in blue ink, appearing to read 'D Jones', with a stylized flourish at the end.

David Jones
Joint General Manager
Competition Exemptions