



## Final Notice

Notification lodged by  
Meredith Dairy Pty Ltd  
in respect of  
proposed resale price maintenance conduct on cheese products

Notification number: RPN10000452

14 June 2019

Commissioners: Keogh  
Rickard  
Cifuentes  
Court

## Summary

The Australian Competition and Consumer Commission (the **ACCC**) revokes the resale price maintenance (**RPM**) notification lodged by Meredith Dairy Pty Ltd (**Meredith Dairy**) on 18 April 2019 for its cheese products.

The notification would allow Meredith Dairy to stipulate minimum prices below which retailers could not sell its cheeses to their customers.

Meredith Dairy is concerned that the prices at which some retailers are selling its cheeses are so low, including, in Meredith Dairy's belief, possibly below cost, that it creates difficulties for Meredith Dairy in managing its relationships with other retailers that sell the same cheeses. Other retailers either assume that the retailer offering the discount is being supplied at a significantly lower price, and ask for the same discount, or they assume that Meredith Dairy is not acting in good faith due to the assumed price differential.

Meredith Dairy submits that ongoing demands for significant discounts from retailers faced with this price competition will impact its margins and profitability, which it submits will in turn impact its ability to re-invest in its business to maintain its commitment to innovation, sustainability and its local community. Meredith Dairy considers that rather than dealing on a case by case basis with each retailer that may be discounting its cheese to levels that are causing concerns for other retailers, it would be more efficient for it to deal with this issue by stipulating minimum prices below which no retailer can sell its cheeses.

The ACCC considers that Meredith Dairy stipulating minimum prices below which retailers cannot sell its cheeses is likely to result in public detriments. It will increase the prices consumers pay for these cheeses by reducing or eliminating retailers' ability to compete on price in selling Meredith Dairy cheeses.

The ACCC considers the public benefit claims have not been substantiated. Based on the information available, the ACCC considers the Notified Conduct is unlikely to result in any public benefit. The ACCC is satisfied the likely benefit to the public will not outweigh the likely detriment to the public from the Notified Conduct.

The ACCC issued Meredith Dairy a draft notice proposing to revoke the notification on 1 May 2019. As the ACCC gave this draft notice to Meredith Dairy under s93A within 14 days of it lodging its notification, the legal protection provided by the notification did not come into force.

As the ACCC has now issued this final notice revoking the notification, Meredith Dairy does not have statutory protection from legal action to engage in the Notified Conduct.

## The notification

1. Meredith Dairy Pty Ltd lodged the RPM notification on 18 April 2019. Under the notification, Meredith Dairy proposes to amend its arrangements with its customers (both direct customers and its distributors) to include a requirement not to sell any of its cheese products, which are marinated goats cheeses and other goats cheeses, (the **Notified Products**), below price(s) nominated by Meredith Dairy (the **Notified Conduct**).
2. In particular, Meredith Dairy proposes to amend its arrangements such that:
  - (a) distributors selling the Notified Products must impose a requirement on resellers not to sell or advertise any of the Notified Products below price(s) nominated by Meredith Dairy, and

- (b) direct customers of Meredith Dairy who retail the Notified Products are subject to the same requirement.
3. Meredith Dairy submits its business activities principally relate to the production of sheep and goats milk products, including cheese, curd, yoghurt and milk. Meredith Dairy is a vertically integrated business based in regional Victoria. It farms crops and livestock, produces milk and manufactures this into dairy products using its on-site factory. Meredith Dairy then distributes its products in three ways:
    - (a) directly to its largest customers (including Coles and Woolworths)
    - (b) directly to its export customers, and
    - (c) via domestic distributors who in turn supply to food services businesses (such as restaurants) and small retailers (such as delicatessens).
  4. Meredith Dairy requests that the Notified Conduct be allowed on an ongoing basis.
  5. On 1 May 2019 the ACCC issued a draft notice proposing to revoke the notification. As the ACCC issued the draft notice to Meredith Dairy under s93A within 14 days of it lodging its notification, the legal protection provided by the notification did not come into force.
  6. Further information in relation to the RPM notification, including the ACCC's draft notice, is available from the ACCC's [public register](#).

## The RPM notification process and public benefit test

7. In broad terms, RPM occurs when a supplier of goods or services (for example, a manufacturer or wholesaler) specifies a minimum price below which a reseller must not on-sell, or advertise for sale, those goods or services.
8. RPM is a *per se* breach of the *Competition and Consumer Act 2010 (the Act)*, which means it is prohibited outright, regardless of whether it has the purpose, effect or likely effect of substantially lessening competition.<sup>1</sup>
9. The Act allows a business<sup>2</sup> to obtain protection from legal action for RPM conduct by lodging a notification describing the conduct (under section 93 of the Act) or by obtaining an authorisation for the conduct (under section 90 of the Act).
10. The legal protection provided by an RPM notification commences automatically at the end of a period of 14 days starting on the day the notification is validly lodged, unless the ACCC issues a draft notice objecting to the notification within that period.<sup>3</sup> In this case, the ACCC issued a draft notice within 14 days of lodgement and therefore legal protection did not commence. Legal protection will only commence if the ACCC decides not to issue a final notice to revoke the notification.<sup>4</sup>

### Legal test

11. The ACCC is required to assess an RPM notification by applying the public benefit test in section 93(3A) of the Act. The test requires that in order to revoke a notification, the

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<sup>1</sup> Section 48 of the Act.

<sup>2</sup> Under the Act, a corporation or other person may lodge an RPM notification: s 93(1)(b) of the Act.

<sup>3</sup> Section 93(7A) of the Act; regulations 9(a) and 9(b) *Competition and Consumer Regulations 2010*.

<sup>4</sup> Section 93(7A) of the Act.

ACCC must be satisfied that the likely benefit to the public from the notified conduct will not outweigh the likely detriment to the public from the notified conduct.

## Rationale for the Notified Conduct

12. Meredith Dairy submits it seeks to engage in the Notified Conduct for two reasons:
  - (a) to manage increasing incidents of, what it considers to be, loss-leading selling (selling the product below cost) of its Notified Products by some retailers, and
  - (b) to ensure its reputation as a price point does not mean Meredith Dairy is forced to underwrite competition against itself.
13. Meredith Dairy states that on several occasions over recent years, it has become aware of deep discounting of some of its products by isolated retailers, typically independent delis. Meredith Dairy submits that such discounting appears to fall within the scope of 'loss leading.'
14. Meredith Dairy submits that where discounting is so extensive and prominent, it creates difficulties with other customers. Such customers assume that the retailer (or distributor) in question is being supplied by Meredith Dairy at a significantly lower price, and they in turn demand a discount. Others assume that Meredith Dairy is not acting in good faith (due to this presumed price differential), and the commercial relationship is harmed as a consequence. Meredith Dairy states that this has prompted numerous complaints.
15. Meredith Dairy submits that under section 98(2) of the Act, conduct that might otherwise be considered to amount to RPM may be permitted where the supplier (e.g. Meredith Dairy) can establish that the retailer is engaging in loss leading.<sup>5</sup>
16. However, Meredith Dairy submits that it is difficult for it to establish that loss leading has occurred because:
  - it knows only the price at which the product is sold by Meredith Dairy to the distributor and the final retail price – as such, it cannot identify whether the distributor or the retailer (or both or neither) is selling at a price that is 'less than their cost', and
  - it knows little or nothing about any other costs which should be taken into account when determining whether the price is 'less than [the distributor's/retailer's] cost'.
17. Further, Meredith Dairy submits that even if it is able to establish loss leading on the part of the retailer (with whom it has no direct relationship), it is powerless to act. Meredith Dairy argues that while section 98(2) of the Act ostensibly permits it to withhold supply to address loss leading, there is no practical means by which it can do so. For example, Meredith Dairy considers it unreasonable and unfair to withhold all supply from the relevant distributor (who has not been engaging in loss leading behaviour, and who presumably also supplies other retailers who are not engaging in loss leading). However on the other hand, if section 98(2) is read as allowing partial withholding, Meredith Dairy queries how it is to ascertain how much supply to keep back to ensure that the offending retailer is not supplied. Finally, Meredith Dairy expects that if it requested a distributor to

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<sup>5</sup> RPM is a per se breach of the Act. Section 98(2) of the Act provides that the per se prohibition on RPM does not apply in relation to the withholding by the supplier of the supply of goods to another person who, within the preceding year, has sold goods obtained, directly or indirectly, from the supplier at less than their cost to that other person:

- (a) for the purpose of attracting to the establishment at which the goods were sold persons likely to purchase other goods; or
- (b) otherwise for the purpose of promoting the business of that other person.

withhold supply from a particular retailer, a prudent distributor would need to satisfy itself that the retailer's conduct does amount to loss leading before withholding supply, otherwise the distributor itself may be contravening the Act. Meredith Dairy argues this leads to additional complexity and delay in enforcing any policy against loss leading.

18. Meredith Dairy provides one example of an independent deli which, it states, prominently and over a sustained period has advertised Meredith Dairy 320g jars of marinated goats cheese at a particular price. Details of the independent deli and the price at which Meredith Dairy submits it has been selling the 320g jars of marinated goats cheese were provided to the ACCC on a confidential basis.
19. Meredith Dairy submits that the advertised price is substantially below the margin that would be expected for a retailer, assuming that the distributor supplying the product has itself applied a margin within the standard range.
20. Meredith Dairy does not say in its notification that it has raised any concerns with, or requested any information or action from, the distributors or retailers that it suspects of engaging in loss leading. Rather, Meredith Dairy states that it considers that posing questions to its distributor about this conduct would cause harm to their commercial relationship while resulting in little or no prospect of a solution. Meredith Dairy submits that as regards to the retailer, with whom Meredith Dairy has no relationship at all, there seems little prospect of Meredith Dairy's questions prompting a useful response.
21. Meredith Dairy submits this view was reached only after considerable time, money and effort was spent investigating the pricing conduct. Meredith Dairy states that while the pricing conduct of this particular retailer has generated more complaints to it than other similar incidents, it is not an isolated example. Meredith Dairy states that it is aware of numerous cases in which its products are priced at a level which renders cost recovery unlikely, but those examples were not included in the notification.
22. Meredith Dairy argues this case highlights the difficulty of pursuing individual incidents of loss-leading selling. Meredith Dairy also argues that there are substantial transaction costs involved in pursuing individual incidents given the number of retailers that carry its products. Meredith Dairy argues that it is not possible to effectively monitor and review all instances of deep discounting on a case-by-case basis.
23. More generally, Meredith Dairy considers its products, specifically its 320g jars of marinated goats cheese, are to some extent used as a price point. Meredith Dairy states that its internal market research indicates that customers are unusually well informed about the price of 320g jars and use their price as a means of judging a store's overall competitiveness. Meredith Dairy also states that it is clear that its major customers are acutely aware of the pricing strategies of other market participants in relation to its cheese products.

### **Consultation**

24. The ACCC sought submissions from Meredith Dairy and interested parties in response to the draft notice. The ACCC also invited Meredith Dairy and interested parties to request the ACCC hold a conference to discuss the draft notice. No party requested a conference.
25. The ACCC received one submission, from Coles Supermarkets Australia Pty Ltd (**Coles**). Coles states that it supports the ACCC's conclusion that the Notified Conduct is likely to result in public detriment by reducing retailer's ability to compete on pricing in selling the Notified Products. Coles submits that in Financial Year 2018/19, it promoted

Meredith Dairy's cheese products to its customers at prices less than the products' regular selling prices on 15 occasions. Of these 15 price reduction promotions, seven were funded entirely by Meredith Dairy, and Coles and Meredith Dairy funded eight on a 50/50 share basis. Coles submits that were the Notified Conduct permitted to stand, such price promotions would be lost to consumers. Coles further submits that it has not promoted Meredith Dairy's 320g jars of marinated goats cheese at a reduced price in Financial Year 2018/19.<sup>6</sup>

26. Meredith Dairy did not provide a submission in response to the draft notice.

## **ACCC assessment**

### **Future with or without the proposed RPM conduct**

27. The ACCC considers that, without the Notified Conduct, retailers selling Meredith Dairy cheese products to the public would continue to individually determine the retail prices of these cheeses.

### **Area of competition**

28. Meredith Dairy submits that while it is arguable that the relevant area of competition may be so broad as to encompass food items other than cheese that are used for 'entertainment', and/or all types of cheese, for the purpose of the notification it considers that the relevant area of competition is the production and wholesale distribution of speciality cheeses. Meredith Dairy submits that the notified RPM conduct would also affect the retail supply of speciality cheeses.

29. The ACCC considers that the relevant areas of competition may be narrower in scope than this given Meredith Dairy's focus on, and strong position in, sales and brand recognition for goats cheese. There is a degree of product differentiation between goats cheeses and other types of speciality cheeses, and the former may well constitute a separate area of competition in its own right. However, the ACCC does not consider it necessary to precisely define the relevant areas of competition in assessing this notification. The ACCC's view that the proposed conduct is likely to result in public detriments that exceed any likely public benefits would stand regardless of whether this matter is considered in the context of narrower markets for the production, wholesale distribution and retail sale of goats cheese, or broader markets for specialty cheeses as proposed by Meredith Dairy.

### **Public detriments**

30. The ACCC considers that, in general, consumers are best served by retailers independently setting their prices based on their own assessment of prevailing market conditions and their own business strategies. Any restriction on their ability to do so impedes their ability to compete, including through a differentiated price offering, to attract customers.

31. Meredith Dairy submits that when imposing RPM on its cheese products it will be subject to the constraints imposed by an extremely competitive market and a powerful customer base. Meredith Dairy states that it has no prospect of setting retail prices above competitive levels without suffering an unprofitable reduction in sales volume.

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<sup>6</sup> Coles Supermarkets Australia Pty Ltd submission, dated 9 May 2019, p 1-2, available from: [ACCC public register](#).

32. To the extent it is binding, RPM restricts the ability of retailers to compete against one another on the price of the Notified Products. Higher retail prices for the Notified Products can also provide the latitude for suppliers of competing products to increase their prices. The degree to which this is likely depends on the strength of other constraints that affect the prices of competing products.
33. Based on the information provided by Meredith Dairy, both in its public submission and confidentially to the ACCC, it appears that at least some retailers are engaging in vigorous price competition in respect of some of its cheese products.
34. While the ACCC is not in a position to form a view about whether the particular example provided by Meredith Dairy of such discounting constitutes loss-leader selling, no clear evidence has been provided to suggest that this is the case. In this respect, as Meredith Dairy acknowledges, it is very difficult for it to know if price discounting by retailers is amounting to loss-leader selling. Accordingly, the manner in which RPM is likely to be applied by Meredith Dairy would be to address any pricing behaviour that it suspects *may* be loss-leader selling.
35. Further, the clear intention of the Notified Conduct is to go beyond dealing with instances of pricing behaviour that Meredith Dairy suspects may be loss-leader selling, so as to also prevent instances of what Meredith Dairy considers is stores using its cheese products as a price signal of the stores' overall competitiveness.
36. Meredith Dairy considers its products, specifically its 320g jars of marinated goats cheese, are used by some retailers to signal to consumers that their prices overall are competitive. To the extent that such price strategies are being adopted, this reflects an independent assessment by the retailers about what the customers they are trying to attract value.
37. The ACCC also notes that loss leading is not necessarily anti-competitive or unlawful, and in this case there is no suggestion from Meredith Dairy that any of the price discounting of its cheese products that is occurring is for an anti-competitive purpose. No evidence has been provided to suggest that the discounting Meredith Dairy wishes to put a stop to is anything more than vigorous price competition, particularly by small independent retailers.
38. The ACCC considers that for markets to work in the interests of consumers, it is critical that small and large retailers are able, indeed compelled by market forces, to compete vigorously, offering and advertising discounts on goods in order to attract and retain customers. Through engaging in the Notified Conduct, Meredith Dairy would seek to prevent retailers from competing to attract customers in this manner.
39. The ACCC also notes that the Notified Conduct would allow Meredith Dairy to not only address price discounting of the types it has identified, but to prevent retailers from engaging in any type of price discounting at all.
40. The reduction in price competition between resellers may also stifle retail innovation, as lower cost, more efficient resellers may be less able to take advantage of their efficiencies by offering lower prices to win sales from less efficient resellers.
41. Additionally, RPM may in some circumstances have the effect of protecting large incumbent retailers, such as the major supermarket chains, from competition from smaller retailers, such as independent delis. One way in which smaller retailers can attract customers from major supermarket chains is by advertising special deals on popular products. The Notified Conduct will restrict this competitive strategy.

42. In this respect, Meredith Dairy submits that the two major supermarket chains have 'enormous bargaining power and, in many cases, countervailing power'. To the extent that this may be the case, this may limit the ability of Meredith Dairy to enforce RPM on them. This could lead to a situation where smaller independent retailers are subject to RPM but the major supermarket chains are not.
43. More generally, it appears, based on the information provided by Meredith Dairy, that it is smaller independents that are primarily driving the price discounting that Meredith Dairy describes. Therefore, the ACCC considers that the Notified Conduct may impact on the ability of smaller retailers to compete more broadly with larger retailers or major supermarket chains by offering lower prices.
44. For these reasons, the ACCC considers that the Notified Conduct is likely to reduce price competition between retailer suppliers of specialty cheeses.
45. This will have two effects on the prices consumers pay for the Notified Products. First, consumers who otherwise would have purchased discounted cheese from smaller retailers will pay more. Second, the removal of price discounts by smaller retailers will likely reduce the pressure on other retailers, including major supermarket chains, to compete with these discounts. It is likely consumers who purchase the Notified Products from these other retailers will also pay more.
46. The ACCC is also concerned about the broader implications of the Notified Conduct.
47. First, there is a risk that higher retail prices for the Notified Products may provide the freedom for suppliers of competing products to increase their prices (reduced inter-brand price competition). The degree to which this is likely depends on the strength of other constraints that affect the pricing of competing products. In the current case, the degree to which this is likely is uncertain.
48. Second, as noted above, the Notified Conduct may limit the way in which smaller retailers compete with larger retailers and the major supermarket chains by advertising special deals on popular products.
49. The ACCC considers that the reduction in competition, and the associated increase in prices some consumers are likely to pay as a result of the Notified Conduct, are public detriments.

## **Public benefits**

50. In the past the ACCC has accepted that in some circumstances, RPM can result in public benefits, including by promoting competition. These public benefits have been tied to addressing market distortions that would otherwise result in under-provision of pre-and post-sales retail services.
51. In this case Meredith Dairy is not claiming that its cheese products are of a nature which requires retailers to invest in pre-and post-sale services. Rather, Meredith Dairy submits that requiring retailers to not sell its cheese products below a price nominated by it will address incidents of conduct which, in Meredith Dairy's view, appears to be loss leading, and the prospect of its cheese products being used as price signals to customers. Meredith Dairy submits that RPM will address these issues, resulting in public benefits by reducing transaction costs incurred by Meredith Dairy in identifying and addressing loss-leading selling and maintaining its margins and profits at levels that would facilitate ongoing investment in its business.



52. The ACCC's assessment of these claimed public benefits follows.

***Reduced transaction costs***

53. Meredith Dairy submits that part of the rationale behind the Notified Conduct is to manage incidents of loss leading without having to expend the time and expense involved in investigating each individual instance of loss leading that may be occurring. However, Meredith Dairy also submits that investigating pricing behaviour which it suspects may be loss-leading selling is time consuming and generally likely to be unproductive.
54. Accordingly, Meredith Dairy submits that it must choose between expending considerable resources on what may be a 'wild goose chase' or annoying loyal customers by not taking action, neither of which, Meredith Dairy submits, is palatable.
55. In this context Meredith Dairy submits that the Notified Conduct would reduce transaction costs and give rise to benefits, by removing the need to engage in 'fruitless' investigations to discern the truth underlying specific instances of deep discounting.
56. The ACCC accepts that Meredith Dairy is concerned that price discounting being engaged in by some retailers selling its cheese products is creating difficulties in managing its relationships with some of its other retail customers. The ACCC also notes that the Act allows a supplier to withhold the supply of goods when a retailer has sold the goods at a price below cost for the purpose of attracting customers.
57. However, as discussed, no clear evidence has been provided to suggest that loss-leader selling has been occurring and there is no suggestion, or evidence, that any of the discounting that Meredith Dairy has identified is being undertaken for an anti-competitive purpose.
58. Further, unlike the type of RPM conduct currently permitted under the CCA, the notified RPM conduct would allow Meredith Dairy to prevent retailers from engaging in any type of price discounting at all.
59. In this case the ACCC considers that Meredith Dairy engaging in RPM conduct to prevent discounting is likely to result in public detriment. This being the case, the ACCC does not consider that reducing the costs that would be incurred by Meredith Dairy to prevent discounting is likely to result in any public benefit.
60. The ACCC also notes that there is uncertainty about whether, absent the Notified Conduct, Meredith Dairy would in fact seek to actively monitor discounting by retailers of its cheese products for the purpose of potentially withholding supply if it considered loss-leading selling was occurring. That is, given Meredith Dairy's position about the time and expense involved in investigating such suspected pricing behaviour, and its view about the apparent futility in generally doing so, the ACCC considers that there is a great deal of uncertainty about whether the costs Meredith Dairy submits it is trying to avoid through the notified RPM conduct would be incurred absent the Notified Conduct in any event.
61. Therefore, the ACCC considers the Notified Conduct is unlikely to result in public benefit through reduced transaction costs in Meredith Dairy's operations.

***Ongoing investment and innovation, ensuring the continued growth of a vigorous and effective competitor***

62. Meredith Dairy states that it prides itself on innovation and is consistently seeking ways to improve the efficiency and sustainability of its operations. Meredith Dairy provides examples of this, including it being awarded the Victorian Landcare Farm of the Year in 2009 and recently winning the Royal Agricultural Society of NSW President's Medal in recognition of 'a product's overall financial, social and environmental integrity through the entire production cycle from gate to plate'.
63. Meredith Dairy also states that it prides itself on use of fresh, local ingredients and the development of innovative products and its commitment and contribution to its local community.
64. Meredith Dairy states that these commitments and initiatives require sufficient margin to ensure ongoing re-investment in its business. Meredith Dairy submits that should significant discounts become the norm in relation to its cheese products, its margins and profitability will be impacted, reducing its capacity to invest in a sustainable, growing business.
65. The ACCC notes that Meredith Dairy submits, as a mitigating factor in relation to any public detriment the RPM conduct may generate, that customers are readily able to switch to any number of alternative products that would be suitable for their needs. Whereas in support of its public benefit arguments, Meredith Dairy submits that the RPM conduct will enable it to 'preserve its unique business model'.
66. The ACCC also notes that Meredith Dairy is not arguing that its margins and profitability are currently being impacted in a manner that is jeopardising ongoing investment in the business. Nor had Meredith Dairy provided the ACCC with any evidence to substantiate a claim that ongoing price competition at the retail level will jeopardise such investment.
67. In short, Meredith Dairy is seeking to limit price competition at the retail level because it considers that doing so will assist it to maintain margins, and levels of profitability, that it considers desirable for the ongoing development of its business. If this strategy were successful, it would essentially result in a wealth transfer from consumers to retailers and Meredith Dairy. Consumers would pay more for Meredith Dairy cheeses and Meredith Dairy and retailers would receive greater returns on the investments in wholesale and retail operations respectively.
68. The ACCC accepts that the discounting described by Meredith Dairy has created problems for it in managing relationships with retailers that sell its products. However, the ACCC does not consider that this justifies interfering with retailers' ability to independently set their prices based on their own assessment of prevailing market conditions and their own business strategies.
69. In this respect, Meredith Dairy has not identified any market failure that would suggest that a restriction on price competition between retailers could achieve a more efficient outcome, and thus higher welfare, than would be the case if the market was left unfettered.
70. Accordingly, the ACCC considers that, in this case, consumer welfare is best enhanced by the promotion of competition, including price competition between competing retailers, rather than by arrangements which will reduce such competition with the aim of protecting the position of a particular business.

## **Balance of public benefits and detriments**

71. The ACCC considers that the Notified Conduct is likely to result in public detriments by reducing retailers' ability to compete on price in selling Meredith Dairy cheeses and increasing the prices consumers are likely to pay for these cheeses.
72. The ACCC considers that the Notified Conduct is unlikely to result in public benefits.

## **Final Notice**

73. For the reasons set out in this notice, the ACCC, based on the information available and in accordance with s93(3A), is satisfied the likely benefit to the public will not outweigh the likely detriment to the public from the Notified Conduct and therefore gives this notice to revoke notification RPN10000452 lodged by Meredith Dairy on 18 April 2019.
74. Accordingly, Meredith Dairy does not have statutory protection from legal action to engage in the Notified Conduct.

## **Tribunal review of the ACCC's decision**

75. The giving of a final notice revoking a notification by the ACCC is subject to review by the Australian Competition Tribunal.<sup>7</sup>
76. A person seeking review must lodge an application for review with the Tribunal within 21 days of the ACCC giving the final notice.<sup>8</sup>

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<sup>7</sup> Section 101A.

<sup>8</sup> *Competition and Consumer Regulations 2010* (Cth), regulation 20(2).