

# Form W

Commonwealth of Australia

*Competition and Consumer Act 2010 — subsection 111 (1)*

## APPLICATION TO THE TRIBUNAL FOR REVIEW OF A MERGER CLEARANCE

PLEASE FOLLOW DIRECTIONS TO THIS FORM

1. I (here insert the name and address of applicant – where the applicant is a corporation, the corporation’s name must be inserted here, not the name of an officer of the corporation) hereby apply to the Australian Competition Tribunal pursuant to section 111 of the *Competition and Consumer Act 2010* for a review of the determination of the Australian Competition and Consumer Commission dated the ..... day of ..... 20..... (Commission file No.....).
2. I am the applicant for the clearance to which the determination relates. The determination was in respect of (here delete whichever is not applicable):
  - (a) an application for clearance under section 95AC; or
  - (b) an application for minor variation of a clearance under section 95AR; or
  - (c) an application for revocation of a clearance under subsection 95AS (1); or
  - (d) an application for revocation of a clearance and a substitution of another clearance under subsection 95AS (1); or
  - (e) the revocation of a clearance under subsection 95AS (5); or
  - (f) the revocation and substitution of a clearance under subsection 95AS (5).
3. I am dissatisfied with the determination of the Commission in the following respects:

.....

.....

.....

*(See Direction 1 of this Form)*
4. The determination I am seeking from the Tribunal is as follows:

.....

.....

.....
5. Attachments are as follows *(See Directions 2 and 3 of this Form)*:
  - (a) a copy of the Commission’s determination;
  - (b) particulars of the facts upon which I intend to rely in support of the application for review;
  - (c) particulars of the contentions and grounds upon which I intend to rely in support of the application for review;
  - (d) a statement of the issues as I see them;

- (e) a list of any information that was referred to in the Commission's reasons for making the determination which was not information given to the Commission in connection with the making of the determination;
- (f) a signed undertaking to the Commission under section 87B of the Act to not make the acquisition while the application for review of a clearance is being considered by the Tribunal.

*(Attention is directed to the Tribunal's Practice Direction No. 2 dated 5 January 2007)*

6. My address for service of documents is (here insert address in Australia at which documents may be served for the purpose of proceedings):

.....  
.....  
.....

Dated this ..... day of ..... 20.....

Signed by/on behalf of the Applicant

.....  
(Signature)

.....  
(Full Name)

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

## **DIRECTIONS**

1. In completing this part, the applicant must include references to particular paragraphs and pages in the determination for which review is sought.
2. If the applicant wishes to rely upon or refer to:
  - (a) information or documents given to the Commission in connection with the making of the determination; or
  - (b) information or documents referred to in the Commission's reasons for making the determination which was not given to the Commission in connection with the making of the determination;

such information and the passages in the documents to which reference is proposed to be made by the applicant must be specifically identified and, if necessary, reference to page and paragraph numbers must be given.

3. If, to the best of the applicant's knowledge, any document that is referred to or relied upon by the applicant in support of this application was not in the possession of the Commission at the time of making the determination for which review is sought, this fact must be stated.

*Competition and Consumer Act 2010*

**Undertaking to the Australian Competition and Consumer  
Commission given for the purposes of section 87B**

**by**

**[Insert name of company] (ACN [Insert ACN])**

1. This undertaking (the Undertaking) is given to the Australian Competition and Consumer Commission (the Commission) by [company name, company ACN] of [company address] under section 87B of the *Competition and Consumer Act 2010* (the *Act*).
2. [Company name] has made an application for revocation of an authorisation and substitution of a new authorisation in respect of an application pursuant to section 111 of the Act for review of a merger clearance.
3. [Company name] hereby undertakes that it will not make the acquisition the subject of the application referred to in paragraph 2 while the application is being considered by the Australian Competition Tribunal.
4. This Undertaking comes into effect when:
  - (a) the Undertaking is executed by [company name]; and
  - (b) the Commission accepts the Undertaking so executed.
5. [Company name] acknowledges that the Commission will make this Undertaking available for public inspection.

**EXECUTED BY** [Company name and ACN] pursuant to section 127 (1) of the *Corporations Act 2001*.

.....  
Signature of Authorised Person

.....  
Signature of Authorised Person

.....  
Office Held

.....  
Office Held

.....  
(Print) Name of Authorised Person

.....  
(Print) Name of Authorised Person

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

**ACCEPTED BY THE COMMISSION PURSUANT TO SECTION 87B OF THE  
ACT**

.....  
Commission Chairperson