

# AUSTRALIAN COMPETITION TRIBUNAL

## PRACTICE DIRECTION No 5

### Validity of Applications

1. Section 95AV (requirements for valid authorisation application), s 95AZL(2) (requirements for valid application for minor variation of authorisation) and s 95AZM(2) (requirements for valid application for revocation of authorisation or revocation of authorisation and substitution of new authorisation) of the *Trade Practices Act 1974* (Cth) (“the Act”) specify that to be valid the application in question must:
  - (a) be in a form prescribed by the regulations and contain the information required by the form; and
  - (b) be accompanied by such other information or documents as are prescribed by the regulations; and
  - (c) be accompanied by the fee (if any) prescribed by the regulations.

The applicant is required to give an undertaking under s 87B to the Australian Competition and Consumer Commission (“the Commission”) that the applicant will not make the acquisition while the application is being considered by the Tribunal. The form of the undertaking appears at the end of the application form set out in the Trade Practices Regulations 1974 (“the Regulations”).

2. When an application is filed with the Tribunal, a Presidential member will assess the application against the relevant statutory provisions and the Regulations. Applications must accord with the form set out in the regulations and contain all the information required by the form and the relevant statutory provisions. The Tribunal expects that the particulars provided will be comprehensive and in substance include the entirety of the applicant’s submissions as to why the application should be granted.
3. Where the Presidential member determines that according to the relevant statutory provisions and the Regulations the purported application is not a valid application, the applicant who made the purported application will be notified within five

(5) business days of the date on which the Tribunal received the application. The applicant will be provided with a written notice stating that the applicant has not made a valid application and setting out the reasons why the application does not comply with the relevant provisions in the Act and the Regulations.



ALAN H GOLDBERG  
President

5 January 2007