

Australian Competition Tribunal

Practice Direction

1. This Practice Direction replaces the Practice Direction issued by the Australian Competition Tribunal (**Tribunal**) on 23 September 2016.
2. All references to statutory provisions contained in this Practice Direction shall be taken to be references to provisions of the *Competition and Consumer Act 2010* (Cth) (**Act**) and the *Competition and Consumer Regulations 2010* (Cth) (**Regulations**).
3. Practitioners and parties are encouraged to contact the Tribunal if they have any queries in respect of the matters set out in this Practice Direction or in respect of the practice of the Tribunal more generally. The Tribunal can be contacted by email (registry@competitiontribunal.gov.au) or by telephone (03 8600 3333).

Filing Documents

4. A document (including a document which commences an application) may be filed with the Tribunal by:
 - (a) emailing the document to registry@competitiontribunal.gov.au;
 - (b) lodging the document on a USB stick (or similar device) at a Registry of the Tribunal;
or
 - (c) lodging the document in hard copy at a Registry of the Tribunal.

The Tribunal's security firewall may cause a delay in the delivery of an email. It will also block emails with attachments of more than 10MB in size. For these reasons, if you seek to file a document by email urgently, please call the Tribunal to confirm that it has been received.

5. The Tribunal is also able to receive documents (including very large documents) by the provision of an emailed link to the documents on a cloud storage facility such as Dropbox, OneDrive or Google Drive. However, this can only be done by way of prior arrangement with the Tribunal. If you are intending to file documents by this means, please first call the Tribunal to confirm such arrangement.
6. The Tribunal maintains its files in electronic form, and accordingly it prefers to receive documents in that form. Subject to any direction from the Tribunal, if a document is provided in electronic form, then it shall not be necessary to provide a hard copy. However, if a document

is filed in hard copy, a copy in electronic form must also be provided. The balance of this Practice Direction assumes that documents are provided in electronic form.

7. Wherever possible, documents should be filed in native PDF (Portable Document Format) or Word format, rather than scanned PDF. Documents produced in native PDF (or Word) are substantially smaller in size than those produced in scanned PDF. If it is necessary to file a document produced in scanned PDF, then it must be subjected to an Optical Character Recognition (**OCR**) process before filing. The OCR process will enable text searches to be conducted.
8. All documents over 20 pages in length must be bookmarked and/or hyperlinked. Similarly, all exhibits, annexures and attachments must be bookmarked and/or hyperlinked.
9. An electronic signature may be used on any document other than an affidavit or a statutory declaration.
10. When a document is accepted for filing, either:
 - (a) the seal of the Tribunal will be affixed to the first page of the document; or
 - (b) a cover page bearing the seal of the Tribunal will be attached to the document.

In either case, the date of filing will be endorsed on the document. In the case of a document which commences an application, this date will stand as the date on which the application for review was filed (**Commencement Date**) for the purposes of calculation of time.

Confidentiality

11. Parties should assume that unless a claim of confidentiality is made, any document filed with the Tribunal will:
 - (a) be added to one or more of its registers;
 - (b) be uploaded to the Tribunal's website; and
 - (c) be made available for download and inspection without restriction.
12. If a party wishes to make a claim of confidentiality in respect of the *whole* of a document, then the file name must commence with the words "Confidential Version", and the first page of the document must be endorsed with the words "Confidential Restriction on Publication Claimed". The document must be accompanied by a submission which sets out the basis of the claim of confidentiality.

13. If a party wishes to make a claim of confidentiality in respect of *part* of a document, then two copies of the document must be filed as follows:
 - (a) A confidential version. The file name must commence with the words “Confidential Version”, and the first page of the document must be endorsed with the words “Confidential Restriction on Publication Claimed”. The confidential parts of the document must be highlighted.
 - (b) A public version. The file name must commence with the words “Public Version”. The confidential parts of the document must be redacted.

The document must be accompanied by a submission which sets out the basis of the claim of confidentiality.

14. If a claim of confidentiality is made in respect of a document, then until the claim is determined by the Tribunal, the document will be treated as confidential and will not be disclosed to any person (other than the Australian Competition and Consumer Commission (**Commission**) – see paragraph [15] below) before that request is determined. However, if a public version is provided, then it should be assumed that the public version will be uploaded to the Tribunal’s website and made available for download and inspection without restriction.
15. Any request to withhold information from the Commission must also be made in writing and supported by a submission. As the Tribunal relies upon the assistance of the Commission, requests to withhold confidential information from it will be acceded to only in exceptional circumstances.
16. The Tribunal will endeavour to determine claims of confidentiality as quickly as possible. If a claim is refused, then the party making the request will be given the opportunity to withdraw the document, either in whole or in part.
17. It should be assumed that, unless good reason is shown not to do so, the Tribunal will make the following order at the initial case management hearing:

Subject to further order specifically varying the operation of this order, all orders as to confidentiality, and all claims as to confidentiality made by a party or other interested person, shall be taken to expire 5 years after the commencement of this proceeding.

Initial Case Management Hearing

18. All matters will be listed for an initial case management hearing before the President of the Tribunal. If the President of the Tribunal is unavailable, the initial case management hearing will be listed before a Deputy President.

19. At the initial case management hearing the applicant and any other interested party should be prepared to address the Tribunal on the following matters:
- (a) possible dates for any public hearing of the application;
 - (b) the expected duration of the hearing;
 - (c) the location of the hearing;
 - (d) whether any part of the hearing should be held in closed session;
 - (e) any issues of confidentiality;
 - (f) the involvement of any third parties; and
 - (g) any impediment to the determination of the application within any timeframe mandated by statute.

JOHN MIDDLETON
President
3 April 2019