

**From:** [Alix Friedman](#)  
**To:** [Associate Middleton](#)  
**Cc:** [REDACTED]  
**Subject:** RE: ACT 4 and 5 of 2021 - Re Authorisation AA1000542 Determination (4046201)[NRF-APAC.FID3014396] [SEC=OFFICIAL] [ME-ME.FID6493469]  
**Date:** Thursday, 17 February 2022 3:32:14 PM  
**Attachments:** [2022.02.16 - ACT 4 and 5 of 2021 - Note re Tribunal jurisdiction\(120346386\\_3\) .pdf](#)  
[Annexure to ACCC Note \(16 Feb 2022\) - Spreadsheet.XLSX](#)

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Dear Associate

We have now had an opportunity to review the ACCC's note provided to the Tribunal last night.

Our clients agree with the ACCC's ultimate submission that the Tribunal has jurisdiction to proceed with hearing these matters. We caveat this view by saying that neither we nor our clients have been able to review the substance of the unprocessed submissions.

We note in particular the ACCC's submissions at paragraph 24 as to the considerable inconvenience that would be caused by a finding that the Tribunal does not have jurisdiction, and the ACCC's submissions at paragraphs 26 to 28 as to the immateriality of any failure to comply with the relevant provisions. We emphasise that a finding that the Tribunal does not have jurisdiction would cause further delay and significant and unwarranted commercial hardship to our clients.

Our clients do not seek to make any further submissions at this stage but reserve their right to do should it be necessary after hearing further from his Honour or from the Applicants.

In addition, should his Honour ultimately determine that the Tribunal has jurisdiction to proceed, we would ask that the parties be given the opportunity to submit an amended form of order providing for the future timetabling of the proceeding. Our clients have not agreed to the form of order proposed by the ACCC on 4 February 2022. Given the apparent lack of materiality in the unprocessed submissions, and the already ample opportunity for the parties to consider the matters they wish to raise in this review, our clients consider there is no need for such significant extensions to the timeframes for filing statements of facts and evidence.

Please let us know if we can otherwise be of assistance to his Honour.

Regards  
Alix

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