**MEMORANDUM OF UNDERSTANDING
BETWEEN THE
AUSTRALIAN SECURITIES AND INVESTMENTS COMMISSION
AND THE
AUSTRALIAN COMPETITION AND CONSUMER COMMISSION**

This memorandum of understanding (MOU) sets out a framework for co-operation between the Australian Securities and Investments Commission (ASIC) and the Australian Competition and Consumer Commission (ACCC) (the agencies) to facilitate liaison, co-operation, assistance, joint enquiries and the exchange of confidential information between the agencies in accordance with the relevant statutory provisions.

1. **PURPOSE**

1.1 The agencies recognise that co-operation between them is desirable to

discharge their respective functions and maximise the effectiveness of their powers.

1.2 The agencies agree to assist each other in the exchange of information, the

referral of matters and the delegation of powers, and to co-operate on compliance, education and enforcement activities within the framework of this MOU and consistent with all relevant laws.

1.3 The agencies do not intend this MOU to create legally binding obligations

between them.

1. **ASIC**

2.1 ASIC is responsible for monitoring, regulating and enforcing corporations and

financial services laws to protect consumers, investors and creditors and promote market integrity. ASIC is responsible for the administration and enforcement of the *Corporations Act 2001* (Cth) (the Corporations Act), the *Australian Securities and Investments Commission Act 2001* (Cth) (ASIC Act), and other relevant legislation.

1. **ACCC**

3.1 The ACCC is responsible for the promotion of competition and fair trading

and provision of consumer protection. The role of the ACCC is to facilitate
and encourage compliance with the laws for which it has administrative

responsibility, to take appropriate acttion in response to contraventions of those laws, to adjudicate on competition and access issues and to educate the community in relation to such milers. The ACCC is responsible for the administration and enforcement of the *Trade Practices Act* *to 1974 (Cth)* (TPA) and other relevant legislation\_

4 LIAISON

4.1 The agencies agree that there will be regular liaison meetings between the

agencies as follows:

4. t.. I meetings at Commissioner/Executive Director level twice yearly, or otherwise as a between the agencies;

4.1,2 meetings at officer level on a monthly basis or otherwise Ets agreed between the agencies to provide information on curTcnt matters which may be of interest to each agency\_

4.2 The agencies agree that. where appropnale, thcy tltconsuit with each other

in relation to recent jud2rnents, current law reform, policy issues. media re1eases rid other matters of mutual interest,

4.3 The a.genie,s agree that, where appropriate, they will consult h each other

in relation to arrangements for joint publications and joint contact with Stakeholder groups.

4A Each agency will appoint liaison contact officers for the purposes of liaison,

communication and exchange of information between the agencies under this MOU\_ The list of liaison comact officers is at Appendix. A. Each agency may change ils liaison Contact of as neixs2iary, and will provide the other ;.lency 4.6th an amended list.

1. INFORMATION IN RESPECT OF WHICH Tills MOU DOES NOT APPLY

5..1 This MOU does not cover access by the ACCC to ASICs 'ASCOT and

'DOCIMAGE' databases\_ ASCOT information is already available to the ACCC. Database material which must be eeniried for evidentiary purposes, is available tea the ACCC l'or the scheduled ree through ASIC Senfice Centres\_

1. EXCHANGE OF INFORMATION UPON REQUFST

6.1 The agencies agree that, subject to 'legislative provi.sions, information **available**

**in one agency, which is relevant to the responsibilitic of the other agency. ill be shared 4.5 requested.. provided that compliance with the request will not adik ersc I y affect the operations of the co m pl yi ng ;Agency.**

**6\_2 Each agency wdl use its best en.deavours to provide relevant information to the**

**other agency in a timely manner\_**

**61 When era:hanging confidential information. ASTC and thc ACCC**

**acknowiedge the confidentiality and secrecy requircrneni of the Acts under which each agency operates. The agency providing information has the neht to ipecify the level al confidentiality attached to the information it provides lo the othei., and to place any. caveats upon the use or disclosure of the information.**

1. **UNSOLICITED ASSISTANCE**

**1 Each agency recognises that in the course of carrying out its functions and**

**exercising its powers, it ma come into possession of inicirrna.tion which would, if provided to the other agency, he likely to .assist that other agency in administering or enforcing the particular laws. for which that agency is re,sponsible. Appendix B contains particulars of the types of matters which each agency considers relevant for the purposes of this paragrdph.**

**7,2 Each agency agrees, subject to legal rEstrictions, to use reasonable endeu.vours**

**to notify the other agency in a timely manner of the ex i sience of any information** of a **kind referred to in paragraph 7.1 above. not that it may nol have received a request from the other agency for such information.**

1. **COST OF PROVISION ON INFORMATION**

**In general, the agency that provide inforMatiOn (the providing agcncy) will hear the cost incurred by it in locating and providing the information to the other agency..**

**8.2 11 it appears to the providing agency that it will incur substantial costs in**

**providing the 'information.. ii may discuss this with the other agency and the agencies may negotiate a cost-sharing anangerrient in relation to the provision of that information.**

**9 REFERRAL 01., MATTERS**

**91 The agencies recognise that once it complaint is received or an initial**

**investigation has been eonductel,t by an agency, it may become apparent thaw the matter more appropriately falls within the junsidiction of the other agency (.3 mailer). For example, ASIC may refer a matter to the ACCC %here the matter hieing investigated primarily involves the i,ipplicatik-pri of the TPA. Similarly, the ACC may refer a matter to ASIC which prinianly involve breaches of Ole ASIC Aci or the Corporations Act or other laws administered by ASIC.**