

5 November 2009

### **FCAI – Application for declaration of motor vehicle import services at Fisherman Islands**

The Authority has received an application from the Federal Chamber of Automotive Industries (FCAI) seeking to have the Authority recommend to the Ministers (the Premier and the Treasurer) that certain motor vehicle import services at Fisherman Islands (FI service) be declared under Part 5 of the *Queensland Competition Authority Act 1997* (the QCA Act).

The Authority has formed the view that the FI service is a candidate service for the purposes of Part 5 of the QCA Act, as per the attached Statement of Reasons.

The Authority intends to conduct an investigation into whether the FI service satisfies the access criteria in s.76 of the QCA Act.

Section 82 of the QCA Act requires the Authority to provide the owner of a service and any other person the Authority considers appropriate with a formal notice that it proposes to start an investigation and to invite the person to whom the notice is given to make a written submission. This is the purpose of this letter.

#### **Notice of Investigation**

In accordance with s.82 of the QCA Act, the Authority advises that it intends to conduct an investigation to decide whether to recommend declaration of the motor vehicle import services at Fisherman Islands.

The Authority must recommend to the Ministers that a candidate service be declared if it is satisfied that all of the following access criteria in s.76 of the QCA Act are met:

- (a) access (or increased access) to the service would promote competition in at least one market (whether or not in Australia), other than the market for the service;
- (b) it would be uneconomical to duplicate the facility for the service;
- (c) access (or increased access) to the service can be provided safely; and
- (d) access (or increased access) to the service would not be contrary to the public interest.

The Authority must recommend that a candidate service not be declared if it is not satisfied about all of the s.76 criteria.

Notwithstanding the foregoing, it is open to the Authority to recommend that a candidate service not be declared if the Authority:

- (a) is not satisfied that access (or increased access) to the service would be likely to have a substantial effect on a market; or
- (b) considers the request was not made in good faith or is frivolous.

Following the investigation about the FI service, the Authority will make a determination in accordance with s. 79(1) that either:

- (a) the service be declared; or
- (b) part of the service, that itself is a service, be declared; or
- (c) the service not be declared.

**Submissions**

The Authority has published FCAI's application on its website ([www.qca.org.au](http://www.qca.org.au)) and has sought submissions from interested parties.

The Authority invites a written submission from interested parties on whether the service, or part of the service, should be declared. Attached is a Submissions page to assist in the preparation and lodgement of submissions.

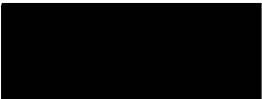
It is noted that some parties have already made submissions on these matters. While the Authority will take those submissions into consideration, these parties are welcome to make an additional submission or to submit a revised submission.

The Authority has prepared an issues paper in respect of this matter and it is available on its website ([www.qca.org.au](http://www.qca.org.au)). You are invited to use this paper as a guide to preparing submissions on the access criteria.

After consideration of all submissions received, the Authority will release a draft decision on the matter of whether the vehicle import services or part of the services should be recommended to the Ministers for declaration. All interested parties will be given the chance to comment on the draft decision. All comments on the draft decision will be taken into consideration in the Authority's final decision on this matter.

Any inquiries should be directed to Paul Bilyk on (07) 3222 0506. The closing date for all submissions is 11 December 2009.

Yours sincerely



EJ Hall  
Chief Executive

## SUBMISSIONS

Public involvement is an important element of the decision-making processes of the Queensland Competition Authority (the Authority). Submissions are therefore invited from interested parties concerning the application by the Federal Chamber of Automotive Industries to the Authority on 11 December 2009 seeking to have the Authority recommend to the Ministers (the Premier and the Treasurer) that certain motor vehicle import services at Fisherman Islands be declared under Part 5 of the *Queensland Competition Authority Act 1997*.

Written submissions should be sent to the address below. While the Authority does not necessarily require submissions in any particular format, it would be appreciated if two printed copies are provided together with an electronic version on disk (Microsoft Word© format) or by e-mail. Submissions, comments or inquiries regarding this paper should be directed to:

Queensland Competition Authority  
GPO Box 2257  
Brisbane Qld 4001  
Telephone: (07) 3222 0506  
Fax: (07) 3222 0599  
Email: ports.submissions@qca.org.au

The **closing date** for submissions is 11 December 2009.

### **Confidentiality**

In the interests of transparency and to promote informed discussion, the Authority would prefer submissions to be made publicly available wherever this is reasonable. However, if a person making a submission does not want that submission to be public, that person should claim confidentiality in respect of the document (or any part of the document). Claims for confidentiality should be clearly noted on the front page of the submission and the relevant sections of the submission should be marked as confidential, so that the remainder of the document can be made publicly available. It would also be appreciated if two copies of each version of these submissions (i.e. the complete version and another excising confidential information) could be provided. Again, it would be appreciated if each version could be provided on disk. Where it is unclear why a submission has been marked "confidential", the status of the submission will be discussed with the person making the submission.

While the Authority will endeavour to identify and protect material claimed as confidential as well as exempt documents (within the meaning of the *Freedom of Information (FOI) Act 1989*), it cannot guarantee that submissions will not be made publicly available. As stated in s.187 of the *Queensland Competition Authority Act 1997* (the QCA Act), the Authority must take all reasonable steps to ensure the information is not disclosed without the person's consent, provided the Authority is satisfied that the person's belief is justified and that the disclosure of the information would not be in the public interest. Notwithstanding this, there is a possibility that the Authority may be required to reveal confidential information as a result of an FOI request.

### **Public access to submissions**

Subject to any confidentiality constraints, submissions will be available for public inspection at the Brisbane office of the Authority, or on its website at [www.qca.org.au](http://www.qca.org.au). If you experience any difficulty gaining access to documents please contact the office on (07) 3222 0555. Information about the role and current activities of the Authority, including copies of reports, papers and submissions can also be found on the Authority's website.