

# COVID-19 (AUSTRALIA): UPDATED GUIDE TO ACCC AUTHORISATIONS (OCTOBER 2020)

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## Australian Antitrust, Competition, and Trade Regulation Alert

By: Ayman Guirguis, Connor McNamara, David Howarth, Mei Gong

*\*This information is accurate as of Thursday 1 October and is subject to change as this situation evolves.*

Welcome to our updated guide to industry collaborations approved by the Australian Competition and Consumer Commission (ACCC) in response to the COVID-19 pandemic. You can find additional information in our previous [insight](#) or previous guides ([August](#) and [May](#)), or you can contact us directly with your query.

## IN BRIEF:

- Industry collaborations that involve restrictions on the supply of goods or services may breach the Competition and Consumer Act 2010 (Cth), either automatically (if they amount to cartel conduct) or if they result in a substantial lessening of competition.
- Where businesses need to collaborate in response to the COVID-19 pandemic, they can self-assess whether the proposed arrangement would be covered by the joint venture exception to cartel conduct, or they can apply to the ACCC for authorisation of the proposed collaborative conduct. In urgent cases, businesses can apply for an interim authorisation to commence the collaborative activity while awaiting a final determination.
- As at 1 October 2020, the ACCC has issued over 25 final determinations authorising competitor collaboration across a broad range of sectors, including banking and insurance; shopping and retail; private and public healthcare; medicines and pharmaceuticals; energy and resources; telecommunications; aviation; and food processing.
- The authorisations cover an equally broad range of collaborative conduct, including competitors cooperating to mitigate disruptions to supply chains; providing financial relief and support for affected businesses and individuals; and sharing information to support implementation of government initiatives.
- All authorisations are conditional and generally include reporting and disclosure requirements. However, the ACCC has largely refused to authorise coordination in relation to price. Where such coordination is allowed, it cannot be used in a way to disadvantage consumers.
- The ACCC is monitoring authorisations to ensure that they are operating as intended and will revoke or modify them in response to a material change in circumstances. Therefore, even successful applicants need to continue to demonstrate the importance of industry collaboration.

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## KEY CONTACTS



**AYMAN GUIRGUIS**  
PARTNER

SYDNEY  
+61.2.9513.2308  
[AYMAN.GUIRGUIS@KLGATES.COM](mailto:AYMAN.GUIRGUIS@KLGATES.COM)

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