Collective bargaining class exemption notice form and information sheet

The ACCC has made a class exemption which allows eligible businesses to collectively bargain without breaching the competition laws.

Groups wishing to rely on the class exemption must complete the **attached** notice form and provide it to the ACCC. The completed notice form (except contact details) will be placed on the public register.

This information sheet is designed to assist business who want to use the class exemption. It contains:

- the notice form you must complete and information about filling it out (page 2)
- basic information about the class exemption, including eligibility, what is included in the exemption, and what isn't (pages 3 to 5), and
- checklists to use:
    - to decide whether you meet the eligibility requirements (page 6)
    - when filling in the notice form (page 7).

More detailed information about the class exemption, when it applies and the protection it provides is available in the ACCC's Collective bargaining class exemption guidelines.

Key points for lodging your notice form

The notice form does not require technical or complex information, is easy to complete and includes basic instructions about how to fill it out. There is no fee.

If you need more space you can attach further information in a separate document.

The ACCC will publish your notice form, including any attachments, on our public register to provide transparency about the groups that are relying on the class exemption (although we will not publish contact details).

Email the notice form to exemptions@accc.gov.au.

Members of a collective bargaining group that have provided a notice form to the ACCC, and which meet the class exemption eligibility criteria and requirements, will have legal protection to collectively bargain. The ACCC will provide bargaining groups with a letter confirming receipt of their notice, but will not assess or confirm eligibility; it is your responsibility to do this by self-assessment.

Collective bargaining class exemption notice form

1. Who is in the collective bargaining group?

Describe or list the current members of the group and those who may join the group in the future.

If you have a small group that will not change, you can list the names of all members.

If you expect to add new members over time, you should provide a **general description of the members of the group.** For example*: A group of dairy farmers in the Manning Valley area in New South Wales.*

Small businesses that choose to join SMEInspect buying rounds. Members are Australian businesses that each, together with any connected or affiliated entities, had aggregated turnover under $10 million in the financial year before joining, and that are clients of SMEInspect (ClarityIntel Pty Ltd, ABN 54 697 254 596, trading as SMEInspect) and choose to join its buying rounds. Membership changes from round to round. SMEInspect represents the group and asks suppliers for offers on its behalf. SMEInspect does not buy or resell any of these services, and each member contracts with the supplier it chooses on its own.

2. Who does the group propose to collectively bargain with?

If you intend to negotiate with just one particular target business, or a small number of known target businesses, you can list the names of each target business.

If you do not yet know all the businesses or organisations you will bargain with (e.g. your group will run a tender) or you expect to add new target businesses over time, you should provide a **general description of the type of target businesses the group intends to collectively bargain with**. For example: *Dairy processing companies*.

Suppliers of electricity, gas, telephone and internet services, and card payment processing, to small businesses in Australia.

3. What does the group propose to collectively bargain about?

Describe the goods or services that the group proposes to bargain about with the target businesses. For example: *Supply of raw milk.*

Prices and terms for the supply of electricity, gas, telephone and internet services, and card payment processing to each member's business. Suppliers are asked for one set of prices for the group, offered to each member individually. Each member decides for itself whether to accept, and no member is required to buy from any supplier.

4. Contact details

A person the ACCC can contact in relation to the collective bargaining arrangements. This can be any member of the group or a nominated representative who is able to provide the ACCC with further information about the group if required. The contact person's name, telephone number, email address and signature will be redacted when the ACCC places this notice on its public register.

Please advise the ACCC as soon as possible if the contact person, or their details, change.

Contact person (name and, if relevant, position):	Redacted for publication, as on the ACCC's public register
Telephone number:	Redacted for publication, as on the ACCC's public register
Email address:	Redacted for publication, as on the ACCC's public register
Signature of contact person:	Redacted for publication, as on the ACCC's public register
Date:	29/10/2026

The collective bargaining class exemption

Collective bargaining occurs where two or more competitors come together as a group to negotiate with a supplier or customer (known as the **target** business) about terms, conditions and/or prices. A group of businesses may sometimes appoint a representative, such as an industry association, to act on their behalf in negotiations.

There can be many benefits from negotiating as a group rather than individually. Collective bargaining is most effective when it provides mutual benefits for the group and target business.

The class exemption does not oblige target businesses to negotiate with a bargaining group. Nor does it override any existing legal or contractual obligations between the parties, such as confidentiality clauses.

The class exemption simply removes the risk that collective bargaining by eligible businesses will breach the competition law.

The **class exemption allows**:

- a business or independent contractor with aggregated turnover of less than $10 million in the preceding financial year, to form or join a collective bargaining group to negotiate with suppliers or customers about the supply or acquisition of goods or services
- franchisees to collectively bargain with their franchisor (regardless of the franchisee's size), and
- fuel retailers who have fuel re-selling agreements with the same fuel wholesaler, and operate under the same system or marketing plan determined, controlled or suggested by the fuel wholesaler or an associate of the fuel wholesaler, to collectively bargain with their fuel wholesaler (regardless of the fuel retailer's size).

The class exemption will only apply where the attached notice form is given to:

- t**he ACCC, when the bargaining group is formed, and**
- **each target business the group proposes to collectively bargain with, when the group or their representative first approaches the target business.**

If **you** are **a target** business that has been given a notice by a proposed collective bargaining group, the class exemption does not:

- require or oblige you to bargain with the group, or
- prevent you from bargaining with group members individually or choosing not to bargain at all.

If some members of a proposed bargaining group do not meet the eligibility requirements for the class exemption, the group may be able to seek legal protection to collectively bargain by using the ACCC's 'authorisation' or 'notification' processes.

How do businesses determine if they are eligible to use the class exemption?

To be eligible, a business must have a 'reasonable belief' that its **aggregated turnover was less than $10 million** in the financial year prior to joining the collective bargaining group.

Franchisees and fuel retailers do not need to meet the aggregate turnover threshold when collectively bargaining with a common franchisor or fuel wholesaler. However, if franchisees or fuel retailers want to collectively bargain with any other target business, such as a supplier of inputs into their business, they will only be able to rely on the collective bargaining class exemption if they meet the $10 million turnover eligibility threshold.

When assessing your turnover you should use the same method that you use to calculate *aggregated turnover* to determine whether you are a 'small business entity' for the purpose of any tax concessions when lodging your tax return.

A business which has not yet confirmed its annual turnover and/or aggregated turnover for the purposes of its tax return for the previous financial year is still eligible to rely on the class exemption provided it has a reasonable belief that its turnover in the financial year *prior* to it joining the group was less than $10 million.

Each business must self-assess whether they meet the eligibility criteria and, therefore, whether they can rely on the class exemption. Further details about how to make this assessment, including how to calculate aggregated turnover, are provided in the ACCC's Collective bargaining class exemption guidelines.

Provided a business had a reasonable belief that its aggregated turnover was below $10 million in the financial year before it joined the bargaining group, it remains eligible to participate in the bargaining group even if, in subsequent years, its aggregated turnover exceeds $10 million.[1]

If one or more members of a collective bargaining group are *ineligible* because they did not have a reasonable belief of an aggregated turnover of less than $10 million in the financial year prior to them joining the group, the ineligible member is not covered by the class exemption and it is at risk of breaching the competition law by engaging in collective bargaining conduct.

Eligible group members should cease dealing with any ineligible member if they become aware that member is ineligible. If they continue to include the ineligible member in their negotiations they are themselves at risk of facilitating a breach of the competition law by the ineligible business. Each member of the bargaining group **must also reasonably expect to make at least one contract** with the target business in relation to the goods or services in question. This simply means that each business must expect that it will sign a contract with the target business – whether the contract is a result of collective negotiations, or individual negotiation (if collective negotiations are unsuccessful).

Bargaining groups should also be aware that how they describe the target business(es) on the notice form matters in this context.

For example, a notice form for a group of dairy farmers may state that they are proposing to bargain about the 'supply of raw milk' and describe the targets as 'dairy processing companies'. In this case, each dairy farmer business must have a reasonable expectation that it will enter into an agreement with *a* dairy processing company regarding the supply of raw milk, but they need not expect to reach agreements with any particular processor(s).

[1] However, if the business wishes to join a new group, it must reasonably believe its aggregated turnover to be below $10 million in the financial year prior to joining the new group.

On the other hand, if the notice form describes the target as 'dairy processing company A', each business must have a reasonable expectation that it will enter into a contract with *that specific dairy processing company* regarding the supply of raw milk.

Other features of the class exemption

- As long as each business meets the eligibility criteria there are no limits on the size of bargaining groups that can be formed, as long as the composition of the bargaining group is as described on the notice form provided to the ACCC.
- There are also no limits on who a group can collectively bargain with as long as the target, or class of target businesses, the group proposes to negotiate with is as described on the notice form provided to the ACCC. However, no business can be compelled to join the group and the group cannot compel a target business to negotiate with the group, for example by threat of a collective boycott.
- The class exemption also provides protection for eligible businesses to conduct joint tender processes or jointly respond to a tender.
- Collective bargaining groups formed under the class exemption can appoint a person who is not a member of the group – such as an industry association, cooperative or professional advisor – to negotiate on their behalf. Bargaining representatives appointed by the group do not need to meet the eligibility criteria unless they are themselves also a member of the bargaining group.
- If the members of the group or targets change so that they no longer match the notice form provided to the ACCC, you must provide a new notice form to the ACCC before the new members of the group, or collective bargaining with new targets, are covered by the class exemption.

Conduct not protected by the class exemption

The class exemption does not provide protection from competition laws where:

- Businesses want to engage in collective boycotts. Businesses can, however, seek legal protection to engage in collective boycotts using the authorisation or notification processes. The ACCC will assess each collective boycott proposal on a case-by-case basis.
- Businesses share commercially sensitive information beyond what is necessary to facilitate the collective bargaining process. Further, the class exemption does not override contractual obligations that limit the sharing of information, such as confidentiality provisions in contracts.
- The ACCC has previously denied or revoked an authorisation or notification for the same collective bargaining arrangements.[2]

Further information

More detailed information about the collective bargaining class exemption, including the eligibility criteria, is available in the ACCC's Collective bargaining class exemption guidelines. We encourage you to read this guide before lodging your notification.

The ACCC is also available to answer questions about the collective bargaining class exemption and the authorisation and notification processes. If you're not sure whether you are eligible for protection under the class exemption, we're always happy to discuss this with you.

Please direct inquiries to the General Manager, Competition Exemptions, ACCC at exemptions@accc.gov.au.

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[2] Or the applicants have withdrawn the notification, or withdrawn the application for authorisation after the ACCC issued a draft determination proposing to deny authorisation.

Checklist for gaining legal protection to collectively bargain through the class exemption

☒ Was your aggregated turnover less than $10 million in the financial year prior to joining the collective bargaining group? Franchisees and fuel retailers do not need to meet the aggregated turnover threshold when collectively bargaining with a common franchisor or fuel wholesaler.

☒ Do you have a reasonable expectation that you will make a contract with a target business?

☒ Has your bargaining group provided a completed collective bargaining class exemption notice form to the ACCC? You can check this on the ACCC's public register. The ACCC will also provide bargaining groups with a letter confirming receipt of their notice form.

☒ You must also ensure that each target business the group proposes to collectively bargain with is provided with a copy of the notice form when the group or their representative first approaches the target business.

☒ If the composition of your bargaining group, or the target business(es) or customer(s) you propose to bargain with, change from as described on the notice form you need to lodge a new notice form with the ACCC.

Checklist for lodging a collective bargaining class exemption notice form

☒ Did each member of your proposed collective bargaining group have aggregated turnover of less than $10 million in most recently completed financial year? Franchisees and fuel retailers do not need to meet the aggregate turnover threshold when lodging a notice form to collectively bargaining with a common franchisor or fuel wholesaler.

☒ Does each member of your proposed collective bargaining group have a reasonable expectation that you will make a contract with a target business?

☒ Provide a completed collective bargaining class exemption notice form to the ACCC. The ACCC will provide you with a letter confirm receipt.

☒ You must also ensure that each target business the group proposes to collectively bargain with is provided with a copy of the notice form when the group or their representative first approaches the target business.

☒ If the composition of your bargaining group, or the target business(es) or customer(s) you propose to bargain with, change from as described on the notice form you need to lodge a new notice form with the ACCC.