

From: [Matthew Anderson](#)
To: [DL - Cathy Rainsford & Assistants](#)
Cc: [Juliet Stuart-Smith](#)
Subject: RE: CT authorisation proposed condition [SEC=OFFICIAL]
Date: Wednesday, 18 January 2023 8:19:09 PM
Attachments: [image001.png](#)
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Hi Cath

I understand that a drafting decision was made to focus on the changes that have occurred since CT's original application – noting that the Authority was satisfied with those arrangements at the time, and acknowledging that requesting information about all the practices, procedures, processes and systems CT has in place to comply with all the conditions would, in effect, be the same as requiring CT to reapply for the authorisation.

The staff view is that this is unnecessary, and a focus on the changes (and how they still ensure that CT will meet the conditions) should provide the ACMA with sufficient grounds to allow the authorisation to continue.

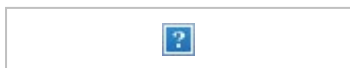
We are happy to discuss with you in the morning ahead of the Authority.

Regards

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From: Juliet Stuart-Smith <Juliet.Stuart-Smith@acma.gov.au>
Sent: Wednesday, 18 January 2023 3:02 PM
To: Cathy Rainsford <Cathy.Rainsford@acma.gov.au>; Matthew Anderson <Matthew.Anderson@acma.gov.au>
Subject: RE: CT authorisation proposed condition [SEC=OFFICIAL]

Thanks Cath,

I understand the Additional Condition was revised numerous times before making its way to you. I'll touch base with Graeme on this as well to see if he has light to shed.

I'd say the drafting was probably intended to try and remove the need to reassess their application.

Talk tomorrow morning.

Cheers,
Juliet

From: Cathy Rainsford <Cathy.Rainsford@acma.gov.au>
Sent: Wednesday, 18 January 2023 2:55 PM
To: Matthew Anderson <Matthew.Anderson@acma.gov.au>; Juliet Stuart-Smith <Juliet.Stuart-Smith@acma.gov.au>
Subject: FW: CT authorisation proposed condition [SEC=OFFICIAL]

Matt, Juliet,

Please see below from Chris – Creina also has a similar question albeit put in a more plain English way.

Can you please consider and can we discuss in the morning ahead of Authority?

Regards

Cath

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From: Chris Jose <Chris.Jose@acma.gov.au>
Sent: Wednesday, 18 January 2023 2:10 PM
To: Cathy Rainsford <Cathy.Rainsford@acma.gov.au>
Cc: Jeremy Fenton <Jeremy.Fenton@acma.gov.au>; Emma Bain <Emma.Bain@acma.gov.au>;
Eve Osiowy <Eve.Osiowy@acma.gov.au>; Creina Chapman <Creina.Chapman@acma.gov.au>
Subject: CT authorisation proposed condition [SEC=OFFICIAL]

Cathy

Apologies for writing to you directly on this but I think Jeremy, Eve and Emma are all on leave.

For tomorrow's Authority meeting we are asked to specify additional conditions set out in Attachment A. That is all understandable, although the actual wording of clause 2(a) troubles me a little.

The condition requires that each of CT and EMRS give an attestation of changes to their practices, procedures, processes and systems and 'how any changes to the processes identified... comply with all conditions of the authorisation'. I think it a bit curious that we focus only on changes but also think the second of limb as to how changes comply with authorisation conditions doesn't quite work.

CT and EMRS must comply with authorisation conditions. I don't think there is any stipulation that an authorised entity's 'processes' must be in any particular form in order to comply with any authorisation condition. Rather the relevance of an entity's practices, procedures, processes and systems is that we must have regard to those processes as we determine whether we are satisfied (as we are required to do) that the entity will comply with the conditions of the authorisation (see Reg 21(1) and (2)).

Our concern is therefore to ensure that (today, 3 years after the authorisation was granted) CT and EMRS retain practices, procedures, processes and systems that will ensure they will comply with the conditions. I agree that we should have a basis to assess that and an additional condition is appropriate. But I don't think the proposed wording achieves that.

I think we can simplify the drafting and refocus it on the specific issue. While you could retain the request about what has changed I think we need only ask them what processes they have in place to ensure that they will comply and to explain how those process will achieve that end.

(2) CT and EMRS must each give written attestations (the **attestations**) to the ACMA setting out:

- (a) ~~what, if any, changes have been made to~~ details of the practices, procedures, processes and systems CT and EMRS has in place or intends to put in place to ensure that CT and EMRS will comply with all conditions of the authorisation; and as set out in CT and/or EMRS's application(s) to the ACMA dated 18 April 2019 (the processes) since that date, and when any such changes occurred.
- (b) how these practices, procedures, processes and systems will ensure that CT and EMRS will ~~a description of how any changes to the processes identified in response to Additional Condition 2(a)(i)~~ comply with all conditions of the authorisation.

If you are going to retain the request about changes:

- We should check whether the processes we had regard to when granting authorisation were set out in the application of April 2019. I have a recollection that we had to go back to them and ask for more information so that we could determine if they would comply with the conditions.
- I don't understand why we have **and/or** with reference to the application**(s)**. We should

know who made the application and how many there were – that is an objective fact.

- I think the proposed numbering is unduly cumbersome. I suggest clause 2(a) and (b) be clause 2 and clause 3 thus removing the need for 2(a)(i) and 2(a)(ii) numbering level.

Happy to discuss.

Chris Jose

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