

Our Ref: AWR.408785
Your Ref: AA1000442



15 August 2019

**By Email: eado.varon@accc.gov.au; darrell.channing@accc.gov.au;
miriam.kolacz@accc.gov.au**

Australian Competition and Consumer Commission
23 Marcus Clarke Street
Canberra
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Attention: Darrell Channing

Dear Mr Channing

**Authorisation AA1000442 submitted by Australian National Kennel
Council Limited (ANKC)**

We refer to your letter dated 25 July 2019 (**your letter**) requesting further information set out in Attachment A to your letter. ANKC has instructed us to provide the following responses.

ACCC Information Requested

For simplicity, we have adopted the ACCC's numbering in Attachment A in relation to the further information requested:

1. ANKC has advised that only Dogs NSW currently has regulations and/or codes which prohibit their members from registering a dog with a registration body not recognised by ANKC (**Unrecognised Bodies**).
2. ANKC has confirmed that ANKC's more stringent requirements will apply. This includes ANKC's requirements which are specifically put in place to protect breeding dogs which may be vulnerable to exploitive breeding practices. In respect of that issue, the impact will be that members with dual registrations will be prevented from possible exploitive breeding of dogs and ensuring that the health and welfare of dogs are not compromised which may be allowed under the more "relaxed" requirements of Unrecognised Bodies.
3. ANKC has advised that an existing member would be permitted under the proposed amendment to breed or own dogs not previously registered with an ANKC state or territory peak body (**Member Bodies**) subject to the member meeting the requirements for registration of the dog under the ANKC Regulations Part 6. Different requirements apply for registration on the Main or Limited/Associate Registers. These requirements for registration with a Member Body are not impacted by the Proposed Amendment and cater for all types of dogs. Specifically, ANKC has confirmed that crossbred or non-pedigree dogs will not be able to be registered on the Main Register or Limited Register. However, those dogs will be able to be registered on the Associate

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Register which would allow them to compete in obedience and agility trials and competitions.

4. Inclusion of ownership in the Proposed Amendment

- (a) ANKC has advised that the inclusion of “owned” in the Proposed Amendment is to supplement clause 23 by requiring that members are required to register dogs owned by them with a Member Body (not just bred by that member).
- (b) ANKC has confirmed that all dogs are eligible for registration, although some dogs are only eligible for the Limited/Associate Register and not the Main Register.

5. ANKC has advised that they are not aware of any local councils which require constituents to be a member of a Member Body in order to own or breed dogs.

6. ANKC’s position is that any organisation seeking recognition by ANKC would need to agree to conform to all ANKC Regulations and Codes of Ethics. ANKC has indicated that it is prepared to, and will, publicly document these requirements.

7. Fees charged by Member Bodies

- (a) ANKC has advised that they have no knowledge of the fees charged by Master Dog Breeders & Associates (or other registration bodies). While ANKC has no knowledge of Master Dogs Breeders & Associates’ administrative arrangements (as they are not as transparent in this area as ANKC), ANKC assumes that that their administrative costs would be significantly lower compared to the administrative costs of ANKC (which includes the maintenance of a large registration database). Importantly, ANKC notes that the main source of revenue for Member Bodies is through registration fees.
- (b) ANKC has advised that each Member Body determines fees independently of ANKC. ANKC’s understanding is that fees are determined as part of each Member Body’s budgetary process.

8. Affiliates and kindred bodies

- (a) ANKC has advised that the listed bodies are not registration bodies and the ANKC Code would not apply to them.
- (b) ANKC has advised that the Proposed Amendment would not affect members of those listed bodies in any way.

9. ANKC registration numbers

- (a) ANKC is unable to determine whether puppies bred by members not registered with a Member Body are purebred or pedigreed. ANKC’s position is that dogs are only able to be accurately determined and classified as purebred or pedigree where they are registered with, and have been bred by members registered with, a Member Body. On that basis, ANKC estimates that the

percentage of purebred or pedigree puppies bred in Australia in 2016 was 15% as stated in ANKC's report.

(b) ANKC National Registration Statistics

- (1) ANKC advised that this figure does represent the number of dogs newly registered by members of Member Bodies in 2018.
- (2) ANKC advised that the total number of dogs registered is 1,078,543 (Exclude Deceased, All Born on or After 2004-07-01). However, ANKC notes that it is not possible to confirm that all of the dogs registered are alive as not all deaths are recorded.

Further Information Requested

In our call to the ACCC on 25 July 2019, the ACCC had also requested further clarity on whether the Member Bodies have the ability to independently impose their own regulations and/or codes (outside of ANKC's involvement).

ANKC has advised that section 4 of the ANKC Constitution provides that "[e]xcept where expressly provided in this Constitution, the ANKC shall not interfere with the exercise of the powers or responsibilities of a Member Body, without the express written authority of such Member Body". Therefore, Member Bodies may, in some areas, impose their own regulations and/or codes independently of ANKC. However, in practice, these regulations and/or codes are usually drafted in conjunction and consultation with ANKC.

Response to Third Party Submissions

ANKC has reviewed the submissions by third parties and provides the following responses:

| Third Party Submission | ANKC's Response |
|--------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Casterton Kelpie Association (26 Jun 2019) | ANKC does not agree that the amendment they seek will create an unbalanced competitive market, the annual demand for puppies in Australia is estimated at 460,000, ANKC Breeders only produced 69,000 of which only 196 were Australian Kelpies. |
| Master Dog Breeders and Associates (22 Jun 2019) | <p>The main objective in seeking the Proposed Amendment to the ANKC Code of Ethics to restrict dual registration, is to protect the health and welfare of breeding bitches. To prevent the overbreeding of bitches, ANKC has the following requirement in its Code of Ethics:</p> <ol style="list-style-type: none">13. A member shall not breed a bitch (except under extenuating circumstances) causing it to whelp more than twice in eighteen months without the prior approval of the member's Member Body.14. A member shall not breed a bitch (except under extenuating circumstances) causing it to whelp more than six times without prior veterinary certification of fitness for further breeding, and without prior |

| Third Party Submission | ANKC's Response |
|----------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| | <p>approval of the member's Member Body.</p> <p>15. A member shall not breed a bitch which is eight years of age and over unless it complies with ANKC Regulations Part 6 Clause 8.3</p> <p>Unfortunately, ANKC believes that some of its members are using their dual membership with the MDBA to circumvent these Code of Ethics and are causing their bitches to breed in consecutive seasons with its Registration Database thus compromising the health, welfare and longevity of those bitches.</p> <p>The only reference that Master Dog Breeders and Associates have addressing this issue is the following:</p> <p>3. No bitch shall be mated without due consideration as to the wellbeing of the bitch and her offspring</p> <p>ANKC has been unable to ascertain if this is an enforceable code or is only enforced through self-regulation. ANKC has also been unable to determine if Master Dog Breeders and Associates have a searchable data base that registers all litters produced by their members so that overbreeding of a bitch can be detected. ANKC has approached Master Dog Breeders and Associates for cooperation in monitoring the breeding history of bitches that are dual registered but have received no response.</p> <p>As stated at the top of this response, the main objective of ANKC in seeking the Proposed Amendment is to provide protection for vulnerable breeding bitches. Had the Master Dog Breeders and Associates had the courtesy of responding to our request for cooperation in identifying breeders who are using both registries to exploit these bitches for commercial gain, this amendment might have been unnecessary.</p> |
| Jerilderie Working Dog Auction (27 Jun 2019) | <p>The amendment sought by ANKC should not provide any impediment to the Jerilderie Working Dog Auction. The Proposed Amendment is not aimed at increasing the sales of puppies, it is about providing protection for vulnerable breeding bitches.</p> <p>With only 15% of all puppies bred by breeders registered as members with Member Bodies, ANKC cannot currently meet the demand for pedigree puppies (and the Proposed Amendment is not intended and is not expected to increase this percentage). If the Jerilderie Working Dog Auction can provide ANKC with examples of how the Proposed Amendment would lead to an imbalance in the open and competitive market we could provide an in depth response.</p> |
| Australian Federation for | ANKC is of the opinion that despite having a separate "Code of Welfare for Australian Livestock Working Dogs" which is more applicable to the needs of |

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| Third Party Submission | ANKC's Response |
|---------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Livestock Working Dogs (27 Jun 2019) | livestock working dogs, Australian Federation for Livestock Working Dogs would support providing protection for vulnerable breeding bitches. |
| An Interested Party (28 Jun 2019 at 8:25pm) | ANKC is of the opinion that the reasons given for opposition to the Proposed Amendment are concerned more with protecting commercial dealings than supporting protection for vulnerable breeding bitches. |
| An Interested Party (20 Jun 2019) | ANKC is of the opinion that the reasons given for opposition to the Proposed Amendment are concerned more with protecting commercial dealings than supporting protection for vulnerable breeding bitches that the Proposed Amendment will provide. |
| An Interested Party (28 Jun 2019) | ANKC is of the opinion that the objections to the Proposed Amendment are concerned more with protecting commercial dealings, despite supporting the ethical breeding and placement of dogs they do not support protection for vulnerable breeding bitches that the Proposed Amendment will provide. |
| An Interested Party (16 Jun 2019) | ANKC is of the opinion that the objections to the Proposed Amendment are concerned more with protecting commercial dealings than supporting protection for vulnerable breeding bitches that the Proposed Amendment will provide. |

Additional Comments

ANKC wishes to also clarify the purpose and effect of the Proposed Amendment. The Proposed Amendment will make it mandatory that all dogs which are owned or bred by members be registered with an ANKC recognised registration body.

The purpose of the Proposed Amendment, as stated in the Application for Authorisation, is to ensure certainty in respect of the registration status of dogs as well as to ensure compliance with the ANKC breeding requirements and importantly, the protection of vulnerable breeding dogs.

Please let us know if you have queries.

Yours faithfully
Piper Alderman



Andrew Rankin
Partner