



April 29, 2004

The General Manager
Adjudication Branch
Australian Competition and Consumer Commission
PO Box 1190
Dickson ACT 2602

Dear Sir,

**Re: Applications by the Department of Industry Tourism and Resources
(A90912 and A90913).**

Thank you for the opportunity to consider and comment on the applications lodged by the Department of Industry Tourism and Resources on behalf of various applicants. Having had the opportunity to review the application, I wish to present the attached in response.

Yours faithfully,

Garth Foxwell
Principal
A Day Outdoors Touring

Phone (61+3+) 9714 8833
Fax: (61+3+) 9714 8284
PO Box 41 Doreen VIC 3754
Email: garth@adayoutdoorstouring.com.au
Web: www.adayoutdoorstouring.com.au
A Day Outdoors Touring Pty Ltd ACN 088 510 196 ABN 22 061 712 986

Response by A Day Outdoors Touring to Applications by the Department of Industry Tourism and Resources (A90912 and A90913).

My response to this matter is set out under the following subject headings. Background to A Day Outdoors Touring; A Day Outdoors Touring and Accreditation; General comments in relation to the Application; Comments specific to the Application to the ACCC.

Background to A Day Outdoors Touring

A Day Outdoors Touring was formed in 1999. The business began formal operations in early 2000. The business is Victorian based and licenced as a small-vehicle tour operator. In essence the business is a single-person operation. By way of further background the principal has been engaged Human Resources across several industry sectors namely:-

- Automotive Manufacturing;
- Mining;
- Retail, and
- Wholesale Services.

This work has taken the principal to every state and mainland territory of Australia as a resident and/or as a visitor. The decision to change from my previous vocation to Tourism was completed after carrying out a number of preparatory activities. These included the following.

- Undertaking a program designed to prepare for entry to small business;
- Attendance at a number of local seminars and workshops concerned with the development of the tourism industry;
- Undertaking university studies in Tourism;
- Engagement on a local government sponsored advisory panel regarding the development of tourism in the Shire of Nillumbik. This led to the establishment of a new Local Tourism Association.

A Day Outdoors Touring has grown progressively since its commencement. This is despite a number of events that have put pressure on tourism operators. These events include:-

- The extraordinary rate of increase in Public Liability Insurance;
- "The events of September 11";
- The collapse of Ansett;
- The Bali bombings;
- The commencement of the war in Iraq, and
- The outbreak of SARS.

In establishing the business much value was found in utilizing various resources promoted by the State of Victoria. This included a number of publications amongst which was one entitled "Pricing for Profit". Over

**Response by A Day Outdoors Touring to Applications by the
Department of Industry Tourism and Resources (A90912 and A90913).**

time I have found this document to be of great value. However it lacks terribly on one point. I have never seen anything like what Tourism Industry operatives have to put up with when it comes to the number of organizations forever with their "hands out" under the guise of "Marketing and Promotions". Regrettably, I think that my State Tourism Office is a key offender.

A Day Outdoors Touring and Accreditation

Over time A Day Outdoors Touring has attended presentations on Accreditation. While the essential message may be attractive, I have not applied to become an accredited Tourism business for numerous reasons.

To begin I am not convinced that the process will bring value to my business. I look to the claimed "benefits" of Accreditation and do not see them as substantive. I have addressed the question of the value of Accreditation to a number of accredited business owners. In general the over-riding opinion is that there is little value in Accreditation. In addition, I look at those who are accredited and those who are not. Generally I find myself coming to the conclusion that the money could be better spent doing other things. In short I am aware of some great businesses that are accredited. I am aware too of some that I don't much care to be aligned with. I have not found consumers identify Accreditation as a key driver to their decision-making in the selection of product. In fact I suggest consumers have a very low-level awareness of Accreditation. I suggest that awareness amongst consumers is probably not as great as the take-up rate by Victorian businesses applying for Accreditation. I note too the development of different accreditation systems. Better Business Victoria is that system with which I am most familiar. I know that Ecotourism Australia have a program too. Recently a new Indigenous Australia program (ROC) has been introduced. I am advised that Accreditation for small-vehicle tour operators is to be introduced in Victoria as a pre-cursor to obtaining the relevant vehicle licence. So which system for my business, or is it to be how many systems for the business?

I know that I am not alone in these views. At the end of the day, the common position is that Accreditation is seen as simply another cost! I think the respective State Tourism Offices should see the issue of low take-up rates as a pointer to the need to identify and resolve why it is that Tourism Operators have shied from Accreditation. As such I think the subject application to the ACCC is at best premature, that is until such time as the intended structure and form of Accreditation is actually and properly in place and widely accepted.

**Response by A Day Outdoors Touring to Applications by the
Department of Industry Tourism and Resources (A90912 and A90913).**

General comments in relation to the Application to the ACCC

In respect of the subject application, I note that the applicants seek approval to do certain things. In particular the application seeks to allow "preferential treatment" of those Tourism businesses that are accredited. I find this fascinating and ask how the ACCC views the fact that Tourism Victoria has been engaging in such conduct for some time. As it happens, by way of the application document, for the first time I find that apparently this question is covered by Victoria's act of "notification" as it is referred to.

However, I would be surprised if such notification goes to some of the other activity – more dubious in nature - that has also been conducted for some time. I believe it goes to the matter of "exclusive conduct". Under the auspices of each regional tourism board, Tourism Victoria prepares a range of major promotional publications. Generally these are known as "the Jigsaw brochure". They are also referred to as "Hero" publications. In the past, tourism operators have been invited to choose participation by way of taking advertising space in one or more of these publications. Alternatively, a business determines to pass-up such an opportunity. Nevertheless, irrespective of what an operator might decide, they have continued to have access to other promotional activities related to the region of interest to their business. Recently, in the case of the Yarra Valley this has changed. Now, only those operators who contract to take advertising space in the regional "Jigsaw" brochure are invited to engage in other promotional activities. In my case, I determined that the "Jigsaw" publication is not of sufficient benefit to my business to warrant placing an advertisement. However, I determined that other planned promotional activities outlined in the prospectus appeared to be of better value. Wanting to be informed of these subsequent programs, I sought more details. I was subsequently informed that having passed on participation in the "Jigsaw" brochure, my business is precluded from being involved in any other programs. This is despite the fact that each program requires the completion of a separate contract for supply. I consider this has been disadvantageous to my business. It is arguable that the result is less choice for the consumer too.

Comments specific to the Application to the ACCC

The application is comprised of various parts as follows and I now comment on various claims.

Item 1 - Cover Letter

**Response by A Day Outdoors Touring to Applications by the
Department of Industry Tourism and Resources (A90912 and A90913).**

Item 2 - Form B – Agreements Affecting Competition – Application for Authorisation

Item 3 – Form E – Exclusive Dealing – Application for Authorisation

Item 4 – Submission in support of Application

Claim - page 2 - "Executive Summary"

The capability of tourism businesses to deliver what they promise and to satisfy customer expectations depends upon sound management practices. Accreditation is a means of identifying which businesses meet these standards.

Response

These claims are fanciful. In the activities of a successful tourism venture many other elements are key and central to satisfying customer expectations before "sound management practices". Arguably the most noteworthy are matters much closer to the customer such as "organisation", "orderliness" and the "observation" skills of those delivering product.

At present Accreditation is not a means of identifying any of these standards. Accreditation is only a means of identifying which businesses have been prepared to complete the application and pay the relevant fees. Most businesses have sought Accreditation for the purposes of perceived marketing benefit and/or as a response to the "preferential treatment" offered by Tourism Victoria in certain of their current promotional activities.

Claim - page 2 - "Executive Summary"

Accreditation can be used to overcome a number of market failures. These include quality assurance,.....This is particularly evident in the inbound tourism sector.

Response

It is not surprising that the activities of some Inbound Tourism operators are identified as an issue. The role of these "middle-men" in the industry raises a whole set of other questions about their activities. I am aware that the one constant issue identified is that there are problems with some Inbound operators structuring tour programs and activities around organizations who provide certain direct benefits to the Inbound operators. However, during my attendance at a range of Tourism industry presentations I cannot identify ever having had it put to operators that there are general problems of any other kind within the industry. As such it seems to me that Accreditation, of itself, is not capable of correcting problems pertaining to the operations of

**Response by A Day Outdoors Touring to Applications by the
Department of Industry Tourism and Resources (A90912 and A90913).**

Inbound Tourism operators. Besides, if there are problems in one sector of the industry why should the whole industry be required to undertake Accreditation as a means of rectifying those single sector failings.

Claim page 2 "Executive Summary"

The conduct is expected to increase take-up of accreditation and....improve business practices and operational efficiency.....and.....will raise Australia's international competitiveness.

Response

I really struggle to find the evidence to support these claims. I expect the ACCC will test the veracity of these claims. Frankly, the above statements simply look like some "corporate gobbledygook" intended to merely make it look like something is being done for some reason.

The claim is also fascinating because, as noted in earlier remarks, Tourism Victoria has been engaging in this conduct for some time. Thus, in the light of the present "preferential treatment" afforded accredited Victorian operators, what is understood to be the real reasons why Victorian tourism businesses have not universally taken up Accreditation? Further, if it is agreed that the role of "preferential treatment" has thus far failed, then what next is going to be done by the applicant organisations to secure greater take-up in the future?

**Response by A Day Outdoors Touring to Applications by the
Department of Industry Tourism and Resources (A90912 and A90913).**

Claim page 2 "Executive Summary"

Consumers will be better informed about the credentials of businesses they are dealing with...

Response

As noted there is already "preferential treatment" being afforded tourism businesses in Victoria. As also noted in the applicant's submissions, part of the basis for the application is to improve take-up of the Accreditation process. Supposedly Tourism Victoria has been educating the consumer about Accredited businesses for some time. Frankly, consumer disinterest is another one of the reasons why Accreditation take-up has been less than spectacular. Thus I would suggest that the claims overplay the value to consumers of Accreditation.

Claim – page 4 – Underlying Rationale for the Proposed Conduct

Shortages of information.....is costly to both parties, particularly overseas businesses and consumers who have poor information on Australia's tourism product.

Response

Accreditation will not have a bearing on the amount or form of information available in overseas markets. In the main the information available is a product of what is prepared by larger organizations such as Inbound Tour Operators and the State Tourism Offices themselves.

Claim – page 4 – Underlying Rationale for the Proposed Conduct

There is currently a low take-up rate of tourism related Accreditation in Australia.

Response

Surely getting to the crux of why this is so is the more important issue and the proper way of addressing the issue of Accreditation.

Claim – page 5 – Underlying Rationale for the Proposed Conduct

The Cooperative Research Centre for Sustainable Tourism has undertaken a study to assess the impact of unethical inbound operator conduct...

Response

I imagine that this may be linked to an earlier point about changed itineraries. Given that Accreditation is aimed at proper business practices - mainly as they relate to "back-office operations" - I doubt that Accreditation applied in the manner proposed across the industry is the means to address the issues within one segment of the industry.

**Response by A Day Outdoors Touring to Applications by the
Department of Industry Tourism and Resources (A90912 and A90913).**

Claim - pages 7 to 16 - The Current Framework for Tourism Accreditation

Various points are made most notably about the poor take-up rate by businesses, the organization of Accreditation in Australian Tourism and information about the programs.

Response

Curiously, to this point of the paper I see no discussion as to why the take-up rate is so low. However, I do note that points raised in explaining Accreditation are of themselves somewhat explanatory as to why there is low take-up. For example in the accommodation sector – a B&B operator – would sign on for the review and granting of a star rating by AAA. They would do so again for Accreditation. It is in part a great example of why so many businesses view the Accreditation process as little more than a cost to the business. In my case – as a small vehicle based tour operator – another form of Accreditation has recently been proposed for Victorian operators. Apparently this will be the panacea for something. Therefore, like our accommodation colleagues, it appears small vehicle operators may also be bitten by the “two Accreditation programs” bug! A further example of this “Accreditation duplication” arises for some small vehicle based operators in relation to “Eco” product. If, for example, a business conducts programs with an “Eco” orientation and wants to promote this element, then to gain “Eco” Accreditation it is necessary to undertake an additional program so creating further duplication of effort and most certainly of cost!!! Thus while certain “Eco” programs may be of a suitably high order to be accredited (perhaps stronger in fact than some existing accredited operators!!) a decision may be made not to proceed to Accreditation because of cost. It follows that the consumer may be disadvantaged by there being a lesser range of product bearing the almighty “Tick”. Yet the reality may be that the “non-tick bearing product” offers certain features more attractive to the consumer. At present we look like having a requirement to be accredited in order to be issued our tour vehicle licence, be accredited again under the Better Business program so that we may access Tourism Victoria promotions opportunities and if we wanted to be viewed “credibly” within the Eco-tourism sector, be further accredited under the auspices of Ecotourism Australia. On the basis of current costs this is going to be something in excess of \$1,500.00 worth of accreditation fees at the outset.

Claim – page 21 – Costs and Benefits of the Conduct

The impact of the conduct on non-applicant promotional providers is somewhat different. These bodies are likely to enjoy an increase in demand for their services.

**Response by A Day Outdoors Touring to Applications by the
Department of Industry Tourism and Resources (A90912 and A90913).**

Response

The claims in relation to this item are extraordinary. Indeed they are presented in such a glowing manner as to suggest increased take-up of the services of "non-applicant" promotional providers is a good thing because there may be new businesses developed and engaged in the promotion of Australian tourism product.

If this claim has any substance then the Applicants should see this kind of outcome as a measure of substantial failure because it suggests the number of tourism businesses continuing to pass on Accreditation will be so great as to lead to other promotions avenues being devised. If Accreditation is so great then the end result would seem to be an enhanced prospect for the promotion of supposedly sub-standard or dubious Australian tourism product.

**Response by A Day Outdoors Touring to Applications by the
Department of Industry Tourism and Resources (A90912 and A90913).**

Presentation of current rates of Accreditation

A range of information is presented to outline the position in each state as to the current levels of Accreditation.

Response

It is noted that Tourism Victoria has been offering "preferential treatment" to accredited tourism businesses for some years and yet only 8% of potential businesses are accredited. Surely this figure should be a matter for great concern both to the State Tourism Offices and the ACCC. In the case of the STO's I do not know what they say is reason for this situation. As for the ACCC, I suggest that if such a large number of businesses are to be precluded from STO promotional activities, then it is reasonable to suggest a significant proportion of these businesses will be disadvantaged and so too the public because of the significant reduction in the numbers of businesses presented to them.

The applications should be rejected.