



Australian Competition & Consumer Commission

PO Box 1199
Dickson ACT 2602
470 Northbourne Ave
Dickson ACT 2602
Australia
Ph (02) 6243 1111
Fax (02) 6243 1199

Our Ref: C2003/1590
Contact Officer: Ursula Everett
Contact Phone: (02) 6243 1235

21 April 2004

Dear Sir/Madam

Application for revocation and substitution lodged by the Victorian Brick and Blocklaying Training Foundation Ltd for itself and on behalf of the Clay Brick and Paver Association of Victoria (A90887)

On 4 December 2003, the Australian Competition and Consumer Commission (the Commission) received an application for revocation of authorisation A90738 and its substitution by authorisation A90887 from the Victorian Brick and Blocklaying Training Foundation Ltd (VBBTF) for itself and on behalf of the Clay Brick and Paver Association of Victoria (CBPAV).

The original authorisation

On 12 December 2000, the Commission granted authorisation A90738 to the CBPAV, for an agreement between its members to impose two levies, one on the price of clay bricks and pavers and one on the price of concrete masonry products sold in Victoria. The levies entail \$1.00 per thousand clay bricks and pavers sold and 5c per square metre of concrete masonry product sold in Victoria. The levies are currently matched by CBPAV and VBBTF manufacturing members, as voluntary industry contributions.

Money raised by the levies is used to fund an apprentice bricklayer training scheme, in an attempt to alleviate the current shortage of skilled bricklayers in Victoria.

Authorisation A90738 was granted by the Commission for a period of 3 years until 3 January 2004.

Application for revocation and substitution

The application for substitute authorisation essentially seeks to extend the current arrangements, however with an increase in the levy applied to clay bricks and pavers. The VBBTF and CBPAV seek to increase the relevant levy from \$1.00 per thousand bricks sold to \$2.00. It is proposed that the levy applied to concrete masonry products remain unchanged. It is also proposed that the levies continue to be matched by CBPAV and VBBTF manufacturing members, as voluntary industry contributions.



In the short term, the Applicants requested interim authorisation for the substitute arrangements until such time as the Commission made a decision on the merits of the substantive application. The Commission granted interim authorisation to the substitute arrangements on 10 December 2003.

The Commission has issued a Draft Determination proposing to grant authorisation to the substitute arrangements as requested for a period of three years. A copy of the Draft Determination is enclosed. The Draft Determination will also be available on the Commission's website: www.accc.gov.au.

Before the Commission makes a final decision regarding the application, it provides an opportunity for the applicant and interested parties to make further submissions to the Commission. The processes for providing submissions, both oral and written, are provided below.

Pre-decision conference

In accordance with section 90A of the *Trade Practices Act 1974*, an interested party may notify the Commission in writing by close of business on **7 May 2004** if that party wishes the Commission to hold a pre-determination conference in relation to the draft determination. The Act does not allow the Commission to extend this deadline.

A pre-determination conference provides the opportunity for interested parties, particularly in the event they are dissatisfied with the Commission's draft determination, to make an oral submission in response to the draft determination. In the event of such a conference taking place it would be held as soon as possible. The Act requires that the conference be held no later than **7 June 2004**.

Submissions

Submissions to the Commission should be made in writing. Unless confidentiality is requested, they will be publicly available and placed on a public register for that purpose. If you wish to include information in a submission which is of a confidential nature, it should be clearly marked as such and a claim for confidentiality for the material should also be submitted. You will be informed of the outcome of that claim and, if it is refused, the relevant material will be returned to you if you wish. Material for which confidentiality is granted will not be publicly available, but may be taken into account by the Commission in making a final decision regarding the application. Guidelines for seeking confidentiality are attached.

If you wish to lodge a submission, would you please address it to:

General Manager
Adjudication Branch
Australian Competition and Consumer Commission
PO Box 1199
DICKSON ACT 2602

Alternatively, submissions may be faxed to (02) 6243 1211 or emailed to adjudication@accc.gov.au

We request that submissions reach the Commission no later than close of business on **14 May 2004**. If you have any queries or if you wish to discuss any aspect of this application further, please contact Ursula Everett on (02) 6243 1235.

Yours sincerely



for Gavin Jones
A/g Director
Adjudication Branch

GUIDELINES FOR CONFIDENTIALITY CLAIMS

Authorisations

The process whereby the Commission assesses applications for authorisation is very public, transparent and consultative. The *Trade Practices Act 1974* (the Act) requires the Commission to maintain a public register in respect of authorisation applications.

Applicants and interested parties can request that a submission, or a part of a submission, be excluded from the public register.

The Commission is required under the Act to exclude from the public register upon request details of:

- (i) secret formulae or processes;
- (ii) the cash consideration offered for the acquisition of shares in the capital of a body corporate or assets of a person; or
- (iii) the current manufacturing, producing or marketing costs of goods or services.

The Commission also has the discretion, under s 89 of the Act, to exclude material from the public register if it is satisfied that it is desirable to do so, either by reason of the confidential nature of the material or for any other reason. The Commission expects that a party claiming confidentiality on these grounds will present a case for its treatment in this manner.

Under Regulation 24 of the *Trade Practices Regulations*, when a request for confidentiality is made to the Commission:

- (a) where the request is that a whole document be excluded, the words "**Restriction of Publication Claimed**" should appear in red writing near the top of each page; and
- (b) where the request is that part of a document be excluded, the words "**Restriction of Publication of Part Claimed**" should appear in red near the top of the first page of each document, and the part for which confidentiality is claimed should also be marked in red. A submission of more than 5 pages should also include a description of the whereabouts of the parts for which confidentiality is claimed.

However, even if a document does not meet these technical requirements, the Commission may still grant confidentiality where, in the Commission's view, it is desirable to do so.

If the Commission denies a confidentiality request, the requesting party may ask that the material be returned. As a matter of practice, the Commission will specify a period (usually 14 days) in which they can request the return of such material. Upon response, the Commission will return the original material and destroy all associated copies. The Commission will not consider this material when reaching its decision.

If the Commission does not receive a response within the specified period, the original material will be placed on the public register.

Information or documents granted confidentiality may be used by the Commission pursuant to its powers generally under the *Trade Practices Act*.

Last Updated: 12 December 2002

Mr John Gaffney
Executive Director - Victoria
Housing Industry Association
PO Box 1614M
Melbourne VIC 3001

Mr Brian Welch
Executive Director
Master Builders Association of Victoria
GPO Box 544D
Melbourne VIC 3001

Chief Executive Officer
Australian Consumers' Association
57 Carrington Road
Marrickville NSW 2204

Mr Brian Murphy
President
Clay Brick and Paver Association of Victoria
PO Box 174
Carlton South Vic 3053

Ms Mary Johnston
A/g Group Manager
Vocational Education and Training Group
Federal Department of Education, Science and Training
GPO Box 9880
Canberra ACT 2601

General Manager
Training and Further Education
Department of Education and Training
GPO Box 4367
Melbourne VIC 3001

General Manager
Group Training Australia – Victoria Inc
113 Drummond Street
Carlton South VIC 3053

Mr Keith Mitchelhill
Executive General Manager
Clay and Concrete Products
Boral Bricks Pty Ltd
Boral Masonry Pty Ltd
GPO Box 910
Sydney NSW 2001

Executive Director
C and M Bricks Pty Ltd
194 Northbourne Road
Campbellfield, Victoria 3061

Mr Mark O'Brian
Sales Manager
Daniel Robertson Australia Pty Ltd
Box 115
Eastern Mail Centre Vic 3110

Executive Director
Nubrik Pty Ltd
Stud Road
Scoresby VIC 3179

Executive Director
Selkirk Brick Pty Ltd
PO Box 630
Ballarat VIC 3353

General Manager
Holmesglen Institute of TAFE
PO Box 42
Holmesglen 3148