

Australian Competition & Consumer Commission

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Our Ref: C2003/1590
Contact Officer: Tania Mayrhofer
Contact Phone: (02) 6243 1070

13 May 2004

Dear

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)

I refer to the Australian Competition and Consumer Commission's (the Commission) letter to you dated 21 April 2004 enclosing a draft determination in relation to the above listed application for revocation and substitution, and inviting further submissions in respect of the draft determination. A copy of the draft determination is available on the Commission's website: www.accc.gov.au.

On 5 May 2004, the VBBTF advised the Commission of the following amendments to its application for revocation of A90738 and its substitution by A90887:

1. The proposed levy arrangements will not only increase the levy on the sale of clay bricks from \$1.00 per thousand to \$2.00 per thousand but also increase the equivalent levy applicable to the sale of concrete masonry products from 5 cents to 10 cents per square metre in the wall; and
2. The levy will not apply to pavers, landscape products and special shapes. These exclusions apply to the current levy.

Before the Commission makes a final decision regarding the application, you are invited to make a further submission to the Commission in respect of the above amendments. The processes for providing submissions, both oral and written, are provided below.

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.

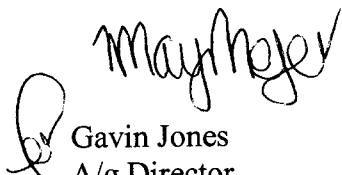
If you wish to lodge a submission, would you please address it to:

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 **Friday 28 May 2004**. If you have any queries or if you wish to discuss any aspect of this application further, please contact Tania Mayrhofer on (02) 6243 1070.

Yours sincerely


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

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