

MASTER BUILDERS ASSOCIATION OF WESTERN AUSTRALIA

19 February 2004

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Adjudication Branch
Australian Competition & Consumer Commission
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MARS/PRISM:

Dear Sir/Madam

Re: Application for authorisation lodged by the Clay Brick & Paver Institute for itself and on behalf of the Concrete Masonry Association of Australia

The Master Builders Association of WA (MBAWA) provides the attached submission to the Australian Competition & Consumer Commission in connection with the above application.

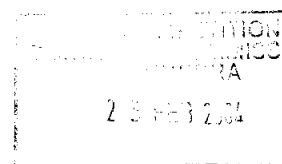
Should you have any issues that you wish to clarify in our submission please do not hesitate to contact the undersigned or the MBAWA's Industrial Relations Manager Mr Kim Richardson on 9322 5133.

Apologies for any inconvenience caused through this submission being received after the closing date; however, proper consultation with our membership following the Christmas/New Year break contributed to this.

Yours sincerely
MASTER BUILDERS ASSOCIATION OF WA



Michael McLean
DIRECTOR



**Application for authorisation lodged
by the Clay Brick & Paver Institute for itself
and on behalf of the Concrete Masonry Association of Australia**

The Master Builders Association of Western Australia (hereinafter referred to as MBAWA) provides this written submission to the Australian Competition & Consumer Commission (ACCC) in response to the above application.

Background

MBAWA is the oldest registered union of employers in the Western Australian Industrial Relations Commission Registry. MBAWA was formed in 1898 and the Commission's records indicate our registration goes back as far as 1904 being the Commission's earliest records.

We have a current membership of just over 1,000 who carry out work in the sectors of:

- industrial/commercial
- housing
- resource development
- civil engineering
- infrastructure

Our membership comprises national commercial builders, large state based commercial builders and sub-contractors, housing builders and sub-contractors including regional builders and sub-contractors, kindred employer associations, suppliers and other industry related groups.

Given our diverse membership base MBAWA says we can truly speak on behalf of the building and construction industry in Western Australia.

Late Submission

MBAWA is mindful the ACCC called for submissions about the application on 23 December 2003 with submissions to be in by 16 January 2004.

We say the timing of this call for submissions was regrettable given the proximity to the Christmas/New Year break which is a traditional shutdown period for many in the building industry including ourselves. That is, the consultation period nominated by the ACCC was associated with a time when many parties directly affected by the application would have limited or no notice about the application with inadequate time to make submissions or in our case, only become aware of the application just prior to the closing date of 16 January.

This also prevented our Council of Management being given an opportunity to consider the matter and determine a response, given Council did not meet until 10 February for its first meeting of 2004.

MBAWA therefore contends this consultation period was inadequate given the above circumstances and we say it is in the public interest that the ACCC consider our submission. Should the ACCC not agree to consider our submission we can only presume the limited consultation period was by design and we will then have to consider all options open to us to ventilate our concerns.

We say it is in the public interest that the ACCC consider our submission given the circumstances surrounding the calling of submissions.

Main Submission

At the outset MBAWA endorses in principle any effort or proposal that seeks to uplift the number of apprentices/trainees in the bricklaying trade and/or building trades in general.

We also provide this submission in support of that already provided by Master Builders Australia Inc.

Our reading of this application raises some concerns which have already been touched upon by Master Builders Australia.

Our comments follow:

- Increasing Bricklaying Apprentices

As we read the application the basic tenet of it appears to be that the imposition of the levy will either eliminate or at least substantially reduce the shortage of bricklaying apprentices and/or trainees in the bricklaying trade.

A second plank of the application is that bricklaying sub-contractors are reluctant to take on bricklaying apprentices and/or trainees due to the 'hassle factor' of too much paper work, uncertainty of employing apprentices over 4 years and other employment related issues.

With respect to the application's authors we say the first point of their submission is overly simplistic. The reality is the building industry at large across all states is struggling to attract sufficient young persons to take up a career in the building industry as apprentices. There are many systemic and community views about the building industry that have lead to this situation arising.

The bricklaying trade is struggling to attract sufficient young people to the trade to take up apprenticeships. However, we say a levy will not by itself overcome the barriers to increasing the number of bricklaying apprentices and/or trainees. The reasons for this are:

- The building industry is considered by many people to be a job of last resort therefore it is not seen as an attractive career choice.
- The building industry, especially bricklaying, is a labour intensive occupation and one not attractive to many of today's young people.
- Other career options appear to offer greater rewards such as IT for example.
- The building industry has a poor image which adds to the community's view, including schools, that the industry has little to offer and is a career of last choice.
- There has been a major shift in education and community attitudes over the past 2 decades creating a perception that it is important that young people go onto university to obtain a degree to further or better their chances of securing a good career. This attitudinal shift has had a negative impact on the way the community at large and education system in the high school years views the building industry as a career.
- This attitude needs to be reshaped plus the career opportunities offered by the building industry, including apprentices such as bricklaying re-packaged in a promotional sense as a broader attack on attracting more young persons to the building industry. With the country's youth unemployment levels constantly

hovering over the 20% level there remains ample scope for the building industry to do this.

We raise these issues given the imposition of a levy will of itself not address the deeper problems that confront the building industry in the training equation.

We agree that the levy proposal is a step in the right direction but it is no panacea for the industry's problems on the training front. Moreover, the levy proposal as framed in the application will place the specific bricklaying apprenticeship group scheme or say a specific nominated group scheme to receive the levy funds at a commercial advantage over other building industry group training schemes.

We will comment on this aspect of our submission later.

- The 'Hassle' Factor

We note the application contends the proposal will result in bricklaying sub-contractors engaging more apprentices as the hassle of dealing with paperwork associated with apprentices will be removed as well as the pressure of having to employ an apprentice for up to 4 years as the bricklaying group scheme will do all that.

We find that assertion curious as that's what group training schemes do now. We see no new development on this front and there is no difference to what is done now by other group training schemes. This aspect of the application only seeks to duplicate what already exists and must fall away as it brings nothing new to the table.

NSW Model

We note that the application is modelled on that which has been in place in NSW since 1999.

We also note that the NSW model was intended to have 300 apprentices after 3 years but that the application rightly points out that it has only engaged 165. The reason for the shortfall in meeting its initial target being the significant rise in workers' compensation premiums.

This concession by the applicant only supports our earlier contention that the reasons why there are insufficient bricklaying apprentices in training goes much wider than the mere lack of a levy.

For example, we understand bricklaying sub-contractors in Western Australia face workers' compensation premiums of around 14% of their respective payroll which is much higher than the average of between 2.4% to 2.7% of other industries. Whilst a sub-contractor may be relieved of this wage cost impost for an apprentice if one is engaged via a group scheme this mechanism already exists.

We see nothing new in this application on this point.

We also point out that there is no requirement in Western Australia for building trades, other than plumbing, electrical and painting, to be licensed.

Economic Advantage

We see the proposal as providing the intended bricklaying apprenticeship group scheme or one nominated to receive the levy funds with an unfair economic advantage in comparison to other building industry group schemes in Western Australia.

This will come about given the proposal as we read it will see the specific group scheme receiving income from:

- ❖ The levy
- ❖ Charge out rates to host employers which will be subsidised or reduced by the levy
- ❖ Payment of the apprenticeship subsidy from the Western Australian Department of Education, Science & Training of \$4,400
- ❖ Payment of the Building and Construction Industry Training Fund (BCTIF) apprenticeship subsidy of \$9,000 in Western Australia

Group Schemes gain their income from the last 3 streams set out above but in the absence of a levy will not be in a position to reduce the charge out rates to bricklaying sub-contractors as the application will do.

This will result in building industry group schemes most likely having to reduce the number of bricklaying apprentices on their books as they will not be able to reduce their apprentice charge out rates to sub-contractors to compete with the specific bricklaying group scheme given the levy income which is in addition to other income streams.

This again lends support to our earlier submission on increasing the number of apprentices in bricklaying. How will this application achieve that?

We say the likely outcome is there will be no increase in the overall number of bricklaying apprentices but a shift in which group scheme employs the bricklaying apprentices only.

We fail to see where the public interest is served with this outcome.

Any Change?

The application as framed in our view offers nothing new for bricklaying sub-contractors or bricklaying apprentices than exists now.

What is proposed is the formation of a specific bricklaying group apprenticeship scheme that will have guaranteed income from the levy in addition to other income such as charge out rates to host employers and state/federal subsidies.

The upshot being the new scheme will enjoy a significant commercial advantage over other building industry schemes.

We do not consider this is an outcome the ACCC can condone without proper safeguards, when made aware of the wider consequences of the application.

In raising this issue we note the application estimates the average cost of the levy is about \$30.00 per house. In Western Australia we have between 17,000 to 18,000 new houses built per year plus enjoy a significant level of housing refurbishment's or additions. As a minimum this will result in an income of between \$510,000 to \$540,000 for new houses alone without regard for the use of bricks and/or pavers in housing additions or refurbishments.

This economic windfall is a significant competitive advantage against other Western Australian based building industry apprentice schemes.

Again, we see no basis in the public interest to warrant the ACCC endorsing such a major anti-competitive arrangement, without proper safeguards.

Whilst raising the issue of economic advantage proposed by the application amongst groups schemes is also the impact on employers of direct indentured apprentices.

MBAWA must raise the issue on behalf of bricklaying sub-contractors as employers of direct indentured bricklaying apprentices.

We also pose the question of why it is they are not able to have access to these levy funds when they incur the same, if not more, burdens as contended by the application, than the designated group scheme for bricklaying apprentices. Afterall, the application does refer to the 'hassle factor' suffered by these employers as a major plank for the levy.

Moreover, should these employers who conduct a commercial operation be denied access to the levy funds or have to compete with others who pay less in labour costs for bricklaying apprentices hired through the proposed scheme then we say the issue of unfair competition arises. That is, these employers have to compete with other bricklaying sub-contractors who have lower labour cost overheads as a result of the levy.

This outcome may result in these employers reducing their direct indenture apprentice(s) and simply hiring from the group scheme. Where is the public interest served in this?

Suggested Change

We see some merit in the application but as touched upon earlier in our submission the proposal is seriously flawed and in our view fails the public interest test under the Trade Practices Act in being granted an exemption by the ACCC.

However, if the proposal was to be recast so that the levy was allocated on a per head basis of bricklaying apprentices for all group schemes with bricklaying apprentices and those employers that engage bricklaying apprentices directly would then be fair and in our view the public interest test would be met in that all relevant employers are able to compete on a fair and equitable footing as a minimum.

In the absence of proper safeguards, MBAWA opposes the application. However, with proper safeguards, we believe the proposal has considerable merit as it spreads the costs of paying for more apprentice bricklayers across the entire building industry client base, including owner-builders; the latter being freeloaders who contribute little if anything to the training agenda.