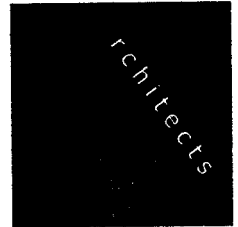


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30 May 2005

Mr Scott Gregson
Director
Adjudication Branch
Australian Competition and Consumer Commission
PO Box 119
Dickson ACT 2602

Dear Mr Gregson

RAIA's application for substitute authorisation

We understand that you are enquiring into RAIA's fees, conditions of engagement and various other practice matters because the ACCC believe that these could constitute restrictive trade. As a long-standing member of the RAIA, I believe that permitting some restrictive regulation of the architectural profession is, ultimately, in the public interest because it protects both the public and its architects.

Some of the key issues are:

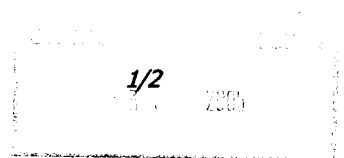
Fees

Existing RAIA fee guides are based on the collective consensual experience of many architectural practices undertaking the professional services for a good standard. They are useful for practices undertaking new types of work because they would not have the background to predict necessary fees. In the absence of a fee guide, one would expect them to seek advice from other practitioners - and the outcome may be no different.

A fee guide creates a sense of what is reasonable in the market place - surely much more efficient for everyone than forcing every practice to review and recalculate fees for every occasion.

Fee guidelines are, of course only that - i.e. 'guidelines' - and can be altered by both parties.

Architectural fees are already subject to enormous downward pressures from those who are perhaps not qualified or have insufficient experience and/or inadequate resources to undertake the works at a reasonable standard. The market place could sort out the good from the bad - probably after many serious mistakes, bankruptcies, lawsuits and disruptive events have taken their toll. It is not possible to do excellent work for an inadequate fee without eventually going broke. Good firms will be undercut by poor ones, perhaps driven out of business. In a society such as ours where cost is becoming the only criterion, would that really be a win?



Code of conduct

It is clear that standards of behaviour in our community are falling. An RAIA Code of conduct – and disciplinary measures to enforce it - is good thing because it tells the community that RAIA member architects will not condone poor and unethical behaviour. Membership of the RAIA is not compulsory for architects – if they find the rules oppressive, or prefer to align themselves with community standards, they could choose not to join.

Competition guidelines

I fail to understand how one can have a fair competition without the same rules being applied to all participants, or without the competitors knowing what is required. One also wants to ensure consistency and impartiality in the assessments and results. Competition guidelines seek to ensure that these aims are met.

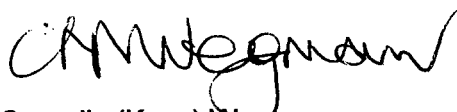
Standard client/architect agreements

These are most useful documents because they set out standard contractual arrangements that have been designed to select most common situations. They are not compulsory – parties can change provisions if they don't like them. However, without such documents, smaller practices would be at a severe disadvantage in dealing with large companies. Smaller firms do not retain batteries of lawyers skilled at drafting, finding and countering loopholes. Some of the provisions that are created by unscrupulous clients make architects uninsurable. Without standard agreements, firms would need to "re-invent the wheel" every time and seek expensive legal advice to ensure that they don't inadvertently break the law.

Conclusion

Whilst the ACCC obviously wants to protect clients and the community from avaricious architects, there is seems to be very little concern with protecting architects from dishonest and/or unscrupulous clients and building owners. The playing field is not level and there is no way that a small to medium sized architectural practice can possibly afford to negotiate on an even basis with the Multiplexes of this world. Fees, codes of conduct, and standard agreements protect both parties. So long as they describe fees in the middle of the normal range, reasonable standards of behaviour, and fair agreements, I do not understand how they can possibly damage the community or diminish competitive intentions.

Yours sincerely



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