

ACCC MEETING NOTE			
File number:	C2005/1078	Meeting with:	Forest Industry Association of Tasmania (FIAT)
Date:	12 September 2005	Participants:	Larry Henderson Andrew Abbott
ACCC Officers:	John Martin Scott Gregson Cameron Martin	Time:	11am
Subject:	Tasmanian Forest Contractors Association – application for authorisation		

On Monday 12 September 2005 John Martin (JM), Scott Gregson (SG) and Cameron Martin (CM) met with Larry Henderson of FIAT and Andrew Abbott to discuss issues relating to the Tasmanian Forest Contractors Association's (the TFCA) application for authorisation in respect of proposed collective bargaining and collective boycott arrangements.

The issues discussed at the meeting are presented below.

Role of the ACCC

ACCC staff outlined the reason for the meetings, discussed the role of the ACCC in assessing applications for authorisation and outlined the public register system.

The Application

FIAT expressed its concern with both the collective bargaining and collective boycott aspects of the TFCA's application, stating that either FIAT or one of the wood companies would be likely to seek a review from the Australian Competition Tribunal if the application is successful. FIAT stated that the industry does not want to be the subject of the proposed arrangements. FIAT noted that the proposed arrangements are likely to constitute price fixing in practice.

The TFCA

FIAT noted that it is unclear who the TFCA represents in the application and the TFCA may not have the full support of all forest contractors. FIAT noted that the TFCA provides training for forest contractors, and that many of these businesses are members only for training purposes.

Forestry Fair Contracts Code 2003

FIAT noted that the Forestry Fair Contracts Code 2003 (the FFCC) is the governing code for all forest contract work. The FFCC implies terms into all forest contracts, including a periodic rate review and dispute resolution procedures. FIAT stated that the FFCC applies to all forest contracts and also applies to unwritten contracts. FIAT noted that they are not aware of any substantial fights or problems with the FFCC.

Contract negotiations

FIAT noted that the competitive nature of the negotiating process has encouraged innovation from forest contractors. FIAT noted that contractors vary in terms of size and tasks carried out. Some harvesting contractors will haul their own logs while others will sub-contract this work. FIAT noted that the industry is unlikely to accept the rigid framework set out in the TFCA's application. FIAT noted its concern that the proposed arrangements may increase the difficulty encountered in contract negotiations due to the different nature of each contract. FIAT also noted that this difficulty could lead to an increased chance of boycotts being used, which would cause disruption to the supply of wood products, and substantial damage to all industry participants.

FIAT pointed out that many of its members are price takers in their product markets, and that they rely on innovation and improvements in efficiency by contractors to reduce costs.

Silviculture

FIAT noted that silviculture work is seasonal and varied. Demand for silviculture tasks will vary throughout the year with some contractors seeking external work when not involved in the industry. Much of the work carried out by silviculture contractors is funded by prospectus based investment, and funding may only exist for a particular task at a particular time.

Barriers to entry or exit

FIAT noted that limited barriers to entry may arise in the form of complying with the Forest Practices Act, OH&S and environmental legislation, as well as the large amount of skill and competence needed to operate a forest contracting business. With respect to potential barriers to exit, FIAT noted that there is scope for forest contractors to use their equipment for purposes other than forestry or sell their equipment into other markets.

With respect to transport contractors, FIAT noted that there is a national market for prime movers, which form the largest proportion of capital outlay for transport contractors. Prime movers can also be used in a variety of other transport industries in addition to the forest industry. FIAT noted that the major equipment used by harvesting contractors, excavators and bulldozers, can be used for other earth moving tasks such as road building. FIAT noted that certain equipment, such as cables used to harvest coupes on a slope, are specialised, and the market for resale is more limited, but there are very few of these in operation.

Transaction costs

FIAT noted that the proposed arrangements are unlikely to reduce transaction costs as each contract is formed under a specific set of circumstances and conditions that require individual negotiation. FIAT noted that a collective bargaining arrangement is likely to add further cost to the current process.

Safety

FIAT noted that safety requirements are strictly governed by codes, and that safety standards are set by statute. FIAT also noted that the OH&S performance of forest contractors is closely monitored, with wood companies consulting with the contractors and ensuring that they receive appropriate training. FIAT noted that safety is legislated and cannot be contracted out.

Industry sustainability

FIAT noted that the industry is generally healthy at the macro level. FIAT noted that further legislation may lessen efficiency, and that inefficient businesses should be allowed to exit the industry. FIAT noted that reducing the number of marginal operators that are unable to comply with the current legislation is not necessarily a bad outcome.