

ACCC MEETING NOTE			
File number:	C2005/1078	Meeting with:	Forest Enterprises Australia
Date:	13 September 2005	Participants:	Andy Corbould Scott McKay Andrew Wye
ACCC Officers:	John Martin Scott Gregson Cameron Martin	Time:	2:30pm
Subject:	Tasmanian Forest Contractors Association – application for authorisation		

On Tuesday 13 September 2005 John Martin (JM), Scott Gregson (SG) and Cameron Martin (CM) met with Andy Corbould and Scott McKay of Forest Enterprises Australia (FEA) and Andrew Wye of Tasmanian Fibre to discuss issues relating to the Tasmanian Forest Contractors Association's (the TFCA) application for authorisation in relation to proposed collective bargaining and collective boycott arrangements.

The issues discussed at the meeting are presented below.

The role of the ACCC

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

Forest Enterprises Australia

FEA noted that they use approximately eight harvesting and transport contractors and 30 silviculture contractors. FEA noted that its funding is dependent on funds raised through a managed investment scheme (MIS) which is a highly regulated form of investment. FEA noted that with regard to the majority of its contractors, typical contract periods were of a duration of 12 months or less, which in part can be attributed the nature of its Plantation Management Investment Scheme & Plantation management operations (MIS). FEA noted that the income tax laws mandate that if a certain amount of money is raised in a given year under an MIS then the same amount of money must be spent on planting within the next financial year. FEA noted that, due to the uncertainty of such investment schemes with respect to the amount of funds that they can raise as well as land availability, it is unable to predict its planting requirements more than one year in advance.

Contract negotiations

FEA noted that with regard to contractor engagements, there generally existed a broad spectrum of types of contractual arrangements ranging from a simple purchase order to detailed term contracts. FEA noted that in a number of cases contracts contained terms providing for pricing review mechanism which uses a formula based on a contractor's inputs such as the cost of fuel to assist negotiation of price adjustments. FEA noted that its contracts are often the subject of informal reviews whereby both FEA and contractors discuss their operating constraints and needs which can take into account contractors needs to have increased work quota's in order to more efficiently utilise its equipment – maximising utilisation of its equipment and vehicles is a key profitability driver for contractors. FEA noted that different types of forest operations

require different and specialised equipment and different mixes of labour and capital, and may incorporate the supply of materials, sometimes not. FEA noted that each contract needs to be considered individually for this reason.

FEA gave examples of how contracts vary from job to job and contractor to contractor, and how individual negotiations had led to productivity improvements.

FEA expressed surprise at having been named in the application as it has enjoyed good relations with its forest contractors.

Transaction costs

FEA noted that if collective bargaining was to occur, it would not reduce the need for FEA to meet regularly to discuss operating issues - contract negotiations would still require specialist involvement to allow for the difference between tasks, equipment and the characteristics of individual coupes. FEA noted that one size does not fit all in respect of its contracting needs, and that the proposed arrangements may reduce the scope for innovation that is provided for by individual negotiations.

Collective boycott

FEA noted that wood fibre products are sold into export markets, with the majority being exported to Japan. FEA noted that movements in the exchange rate and the cost associated with environmental compliance have increased the cost of Australia's wood fibre. FEA noted that being able to provide certainty of supply to the export markets is extremely important, and the perception in these markets that wood companies could experience an interruption in their ability to supply due to a collective boycott could affect Tasmania's reputation and damage export sales. Furthermore such arrangements would not only materially impact on the competitiveness of Tasmanian wood product exporters globally but also against exporters from other States.