



Australian
Competition &
Consumer
Commission

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26 October 2005

«Name»
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Dear «Salutation»

**Homeworkers Code of Practice Committee Inc. applications for re-authorisation
A90975, A90976, A90977, and A90978 – draft determination**

The Australian Competition and Consumer Commission (the ACCC) has issued a draft determination in respect of the applications for re-authorisation lodged by the Homeworkers Code of Practice Committee which concern arrangements under the Homeworkers Code of Practice.

For the reasons set out in its draft determination, the ACCC proposes to grant authorisation for a period five years. A copy of the ACCC's draft determination is attached and is also available from the ACCC's website at:
<http://www.accc.gov.au/content/index.phtml/itemId/704992>

Further submissions

The ACCC now invites interested parties to make a written submission in response to the draft determination. Written submissions should be lodged by close of business **16 November 2005** at the following address:

The General Manager
Adjudication Branch
Australian Competition & Consumer Commission
PO Box 1199
DICKSON ACT 2602

Submissions can also be lodged by e-mail to adjudication@acc.gov.au or by facsimile on 02 6243 1211.

Any submission you make will be placed on the ACCC's Public Register. You may request that information you provide in a submission to the ACCC be treated as confidential and not placed on the Public Register. Information excluded from the Public Register for reasons of confidentiality will still be considered by the ACCC when reaching its decision. Guidelines for seeking confidentiality are attached for your information.



Conference

In accordance with section 90A of the *Trade Practices Act 1974* (the Act), interested parties may notify the ACCC in writing by close of business on **11 November 2005** if they wish the ACCC to hold a conference in relation to the draft determination. The Act does not allow the ACCC to extend this deadline.

The ACCC will consider any submissions it receives, including any oral submissions made should a pre-determination conference be called, and will then release a final determination in relation to these applications.

This letter has been placed on the ACCC's public register. If you wish to discuss any aspect of this matter please do not hesitate to contact Hew Atkin on (02) 6243 1235.

Yours sincerely



for Scott Gregson
General Manager
Adjudication Branch

GUIDELINES FOR CONFIDENTIALITY CLAIMS

The process whereby the ACCC assesses applications for authorisation is very public, transparent and consultative. The *Trade Practices Act 1974* (TPA) requires the ACCC to maintain a public register in respect of authorisation applications.

Applicants and interested parties can request that a submission, or part of a submission, be excluded from the public register. The ACCC is required under the TPA to exclude from the public register upon request details of:

- (i) secret formulae or process;
- (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.

However, even if a document does not meet these technical requirements, the ACCC may still grant confidentiality where, in the ACCC view, it is desirable to do so.

The ACCC also has the discretion, under s89 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 ACCC 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 ACCC:

- (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.

Applicants, as a matter of course, should remove headers claiming “confidential communication” from all Emails and otherwise, unless they have a particular piece of information that they justify to the ACCC deserves exclusion from the public register. If confidentiality is not requested but a header cannot be removed, it should be clearly stated at the beginning of the communication that confidentiality is not requested.

If the ACCC denies a confidentiality request, the requesting party may ask that the material be returned. As a matter of practice, the ACCC will specify a period (usually 14 days) in which they can request the return of such material. Upon response, the ACCC will return the original material and destroy all associated copies. The ACCC will not consider this material when reaching its decision. If the ACCC 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 ACCC pursuant to its powers generally under the *Trade Practices Act 1974*.

List of interested parties

- ACT Chief Minister's Department (Industrial Relations)
- Australian Consumers Association
- Australian Chamber of Commerce & Industry
- Australian Defence Apparel
- Best & Less Pty Ltd
- Business Council of Australia
- Carla Zampatti Pty Ltd
- Coles Myer
- Collette Dinnigan Pty Ltd
- David Jones Ltd
- Department of Employment and Workplace Relations
- Department of Immigration and Multicultural & Indigenous Affairs
- Department of the Prime Minister and Cabinet
- Department of the Treasury
- Federation of Ethnic Communities' Councils of Australia
- Industrial Relations Victoria
- Jeans West
- Just Group
- Northern Territory Department of Employment Education & Training
- NSW Department of Commerce (Office of Industrial Relations)
- The Office of the Privacy Commissioner
- Pacific Brands Ltd
- Pretty Girl Fashion Group Pty Ltd
- Queensland Department of Industrial Relations
- Rip Curl
- R.M. Williams Pty Ltd
- South Australia Department of Further Education Employment Science & Technology
- Sportsgirl
- Tasmania Department of Premier and Cabinet (Industrial Relations)
- Teena Varigos Australia Pty Ltd
- Vivian Chan Shaw
- Western Australia Department of Consumer & Employment Protection