



**Australian  
Competition &  
Consumer  
Commission**

Our Ref: C2006/1239  
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8 August 2006

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«City» «State» «ZIP\_Code»

Dear «Honorific» «Last\_Name»

**Proposed amendments to Australian Brick & Blocklaying Training Foundation  
Authorisation A90993 - interested party consultation**

**Introduction**

The Australian Competition and Consumer Commission (ACCC) is currently consulting interested parties about an application for a minor variation of the authorisation granted to the Australian Brick & Blocklaying Training Foundation Ltd (ABBTF) on 26 April 2006. As a possible interested party, I invite you to comment on the issues outlined in this letter.

**Background**

The *Trade Practices Act* allows the ACCC to grant immunity from legal action for anti-competitive conduct if it is satisfied that the public benefit from the arrangements or conduct outweighs any public detriment. One way in which businesses may obtain this immunity is by applying to the ACCC for an 'authorisation'.

The ACCC may also grant a minor variation of an existing authorisation, if it is satisfied that the variation would not change the balance of public benefits and detriments.

The ACCC is required to inform interested parties about a proposed minor variation, and invite submissions on the application before it can issue a determination varying the original authorisation or dismissing the application.

**Original authorisation of A90993**

On 26 April 2006, the ACCC granted authorisation to the ABBTF, on behalf of itself, the Clay Brick & Paver Institute (CBPI), the Concrete Masonry Association of Australia



(CMAA), and the members of those organisations to collect levies on sales of clay bricks and concrete masonry products.

The levies are charged at a rate of \$2 per thousand bricks and 10 cents per square metre of concrete masonry products. Funds raised from the levies are used to promote bricklaying to young people as a vocational choice, and to support the provision of training. Authorisation was granted for a three year period.

### **Proposed minor variation to A90993**

The ABBTF has sought a minor variation to remove any doubt that subsidiaries of members of the ABBTF, the CBPI and the CMAA are also covered by the authorisation.

The proposed minor variation to Authorisation A90993 would include the following paragraph in the determination:

“For the sake of clarity, this authorisation also applies to bodies corporate which are subsidiaries, within the meaning of *section 4A* of the *Trade Practices Act*, of the members of the Australian Brick & Blocklaying Training Foundation Ltd, the Clay Brick & Paver Institute and the Concrete Masonry Association of Australia, and are manufacturers of the clay brick and concrete masonry products to which the authorised levies will apply.”

### **Request for submissions**

Your comments on the likely public benefits and the likely effect on competition, or any other public detriment, from the proposed changes would assist the ACCC’s assessment of the proposed minor variation. Written submissions are preferable so they can be made publicly available. They are placed on a public register for this purpose.

Interested parties lodging a submission may request that information in the submission be excluded from the public register, because it is sensitive or confidential. If information is excluded from the public register, the ACCC may take it into account even though it is not publicly available. Guidelines for seeking to have information excluded from the public register are enclosed.

If you wish to lodge a submission, please address your submission to:

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

Submissions can also be lodged by email to [adjudication@acc.gov.au](mailto:adjudication@acc.gov.au) or by facsimile on 02 6243 1211.

If you intend to provide a submission in relation to the ABBTF's application for minor variation, please do so by **c.o.b.** 22 August 2006.

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 Tim Scott on 02 6243 1221.

Yours sincerely

David Hatfield  
Director  
Adjudication Branch

Encl.

## GUIDELINES FOR CONFIDENTIALITY CLAIMS

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

**ABBTF application for minor variation of Authorisation A90993**

**Interested parties consultation**

Master Builders Australia Inc

Master Builders Association of Western Australia

Industry Skills Development Group, Department of Education, Science and Training

Australian Master Bricklayers Association Inc

Department of Education and Training (Victoria)

Housing Industry Association Inc

Daniel Robertson Australia Pty Ltd