



Australian
Competition &
Consumer
Commission

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10 April 2007

Dear Sir/Madam

Construction Material Producers Association Inc application for authorisation A91047

The Australian Competition and Consumer Commission (the ACCC) is currently conducting an interested party consultation process in relation to an application for authorisation made by the Construction Material Producers Association Inc (the CMPA). The CMPA has sought authorisation to develop and publish a number of standard form contracts for its members.

The purpose of this letter is to invite you, as a potentially interested party, to comment on the issues outlined in this letter and the CMPA's application for authorisation.

Background

The ACCC is the independent Australian Government agency responsible for administering the *Trade Practices Act 1974* (the Act). A key objective of the Act is to prevent anti-competitive arrangements or conduct, thereby encouraging competition and efficiency in business resulting in a greater choice for consumers in price, quality and service.

The Act, however, allows the ACCC to grant immunity from legal action for anti-competitive conduct in certain circumstances. One way businesses may obtain immunity is to apply for what is known as an 'authorisation' from the ACCC. Broadly, the ACCC may 'authorise' businesses to engage in anti-competitive arrangements or conduct where it is satisfied that the public benefit from the arrangements or conduct outweighs any public detriment.

In assessing the public benefits and detriments of an authorisation application, the ACCC undertakes a public consultation process seeking comments on the application from interested parties. Following an initial consultation process, the ACCC will issue a draft decision for comment. The ACCC will then reconsider the application in light of any further submissions, and release its final decision.



The application

The CMPA's full application includes a number of proposed standard form contracts and is therefore quite lengthy. Accordingly, I have only enclosed a copy of the CMPA's completed application form and its submission with this letter. Copies of the remaining documents will be available on the ACCC's website: www.accc.gov.au (by following the Public Registers and Authorisations links). If you are unable to access these documents electronically, you may request hardcopies.

Request for interim authorisation

The CMPA has also requested interim authorisation for its application. In particular, the CMPA seeks interim authorisation to begin training in the procedures for implementing a number of the contracts and to allow the parties to begin using the 'Owner Driver's Contract' prior to 1 May 2007. The CMPA's submission in relation to interim authorisation can be found at paragraph 5 of the attached document.

The ACCC endeavours to deal with requests for interim authorisation quickly. In making an assessment as to whether it is appropriate to grant interim authorisation, the ACCC is not required to undertake a full assessment of the benefits and detriments likely to arise as a result of the proposed conduct.

The ACCC decides whether to grant interim authorisation on a case by case basis. Should an applicant request interim authorisation, the ACCC will usually consider a range of factors, including harm to the applicant and other parties if interim is or is not granted, possible benefit and detriment to the public, the urgency of the matter and whether the market would be able to return to substantially its pre-interim state if the ACCC should later deny authorisation.

Request for submissions on the application for authorisation

To assist the ACCC in assessing the application for authorisation made by the CMPA, you are invited to provide comments responding to the application. In particular, your view is sought as to the likely benefits to the public and the potential effect on competition of the proposed arrangements. An indicative timetable is set out below for your information.

If you wish to provide comment on the CMPA's request for interim authorisation, I would be grateful if you could do so by close of business **Tuesday, 24 April 2007**.

If you intend to provide a submission in relation to the CMPA's overall application for authorisation, please do so by close of business **Friday 11 May 2007**.

General information

The ACCC asks for submissions to be in writing so that they can be made publicly available. Submissions are placed on a public register and may also be placed on the ACCC's website. The ACCC may, where appropriate, supplement written submissions with discussions with relevant parties on a mutually convenient basis.

Should you lodge a submission with the ACCC you may request that confidential information be excluded from the public register or the ACCC's website. The ACCC may take this information into account during its assessment of an authorisation application. Guidelines for requesting exclusion of material from the public register are attached to this letter for your information.

Should you wish to lodge a submission, please address it to:

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

Submissions can also be lodged by email to adjudication@acc.gov.au, or by facsimile on (02) 6243 1211. Should you wish to be kept informed as this matter progresses, please provide a nominated contact email address for future correspondence.

If you have any queries or if you wish to discuss any aspect of this matter please do not hesitate to contact Liam Stewart on (02) 6243 1275.

Yours sincerely

David Hatfield
Director
Adjudication Branch

Construction Material Producers Association A91047 – Indicative Timetable

5 April 2007	Lodgement of application and supporting submission.
10 April 2007	Public consultation process begins.
24 April 2007	Closing date for submissions on application for <i>interim</i> authorisation.
Early May 2007	ACCC decision regarding interim authorisation.
11 May 2007	Closing date for submissions on application for <i>substantive</i> authorisation.
28 May 2007	Applicant responds to issues raised in the public consultation process.
May/June 2007	ACCC assessment.
June 2007	Draft determination.
June/July 2007	Public consultation on draft determination including any conference if called.
July 2007	Final determination.

Interested parties list

Cement Concrete & Aggregates Australia

Transport Workers Union

Local Government Victoria

National Transport Commission

Australian Trucking Association

VicRoads

Victorian Transport Association

Transport Industry Council

Boral - Australian Construction Materials

Cement Industry Federation

Cement Australia

Blue Circle Southern Cement

Melbourne Water

Department of Infrastructure

VicTrack

Department of Employment and Workplace Relations

Delta Group

Local Mix Quarries

Mansfield Constructions

Newcomb Sand & Soil Supplies

Readymix

Hanson Group

Barro Group