



**Australian
Competition &
Consumer
Commission**

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Our Ref: C2006/2188
Your Ref: DGL:MEA:167802
Contact Officer: Gavin Jones
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24 September 2007

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Mr David Lucas
Principal
Macpherson + Kelley Lawyers
PO Box 343
DANDENONG VIC 3175

Dear Mr Lucas

**Third line forcing notification N92719 lodged by
the Boating Industry Association of NSW Ltd**

I refer to recent correspondence in relation to the above listed notification.

The conduct the subject of the notification involves the Boating Industry Association of NSW (BIA) requiring that exhibitors in its exhibition halls at the Sydney International Boat show use only approved electrical, rigging, furniture, stands and carpet and plant suppliers at their exhibition stands.

Your original letter of 14 June 2007 raised concerns, on behalf of your client, that no public benefits are likely to result from the notified conduct or if they did, they would be outweighed by the detriment to the public resulting from the conduct.

In particular you submitted that the notified arrangements result in a detriment to the public due to reduced choice and increased costs of having exclusive suppliers.

In my response of 29 June 2007, I advised that on the information available it was not clear that the detriments associated with the reduction in choice for exhibitors resulting from the proposed conduct would be likely to outweigh the benefits derived in the form of a cost effective means of the BIA addressing workplace safety issues.

Your two further submissions, both dated 4 July 2007, reiterate your concerns regarding the need for the BIA to approve suppliers with respect to occupational

health and safety and WorkCover requirements given that the venue for the boat show, the Sydney Convention and Exhibition Centre (the venue) has its own induction process for contractors.

Notwithstanding any induction process undertaken by the venue, as noted in my letter of 14 June 2007, the BIA submits that the venue requires *organisers of shows* (emphasis added) to induct all contractors working at the venue and address any issues arising as a result of poor work practices.

As also noted in my letter of 14 June 2007, in these circumstances there seems to be some argument that limiting service providers able to work at the venue may, by limiting the number of contractors it is required to assess and accredit, be a cost effective means of the BIA addressing workplace safety issues.

Your submissions of 4 July 2007 also raise concerns that existing customers of your client have custom built stands constructed by your client for use at other boat shows which are not available through the BIA's nominated supplier and which, by virtue of notified conduct, are unable to be used at Sydney International Boat Show.

The ACCC has written to the BIA inviting its comments in respect of the concerns raised, and any other comments it may have regarding the public benefits and public detriments of the notified arrangements.

The BIA's response, dated 18 September 2007, states that:

- The BIA has a policy of placing all major supply contracts up for tender at least every three years. Tenders for supply of relevant services for the Sydney International Boat Show are required to address issues such as: appropriate licensing and accreditation; occupational health and safety; WorkCover compliance; capacity to supply; pricing to the BIA and exhibitors; timeliness of supply and installation; age and condition of equipment; compliance with Australian standards; on site monitoring and service.
- The BIA does provide exemptions for exhibitors wishing to engage a company or business to construct a custom built stand.
- The notified arrangements ensure that the BIA provides a safe and secure environment during the construction phase, and a safe exhibition providing adequate public safety.

In addition to the cost savings associated with limiting the number of suppliers it has to accredit, the BIA identified that it considers the following factors as important in limiting the number of contractors:

- Efficiency and timeliness – decisions can be made and implemented more efficiently by having only one person to communicate with in respect of each service.
- Logistical movements can be controlled and managed better with exclusive contractors given that the venues loading dock is small, becomes easily

congested, and that during the move in period (72 hours) there are approximately 1000 vehicle movements.

Quality of workmanship – ensuring that services supplied meet quality design and installation standards.

As noted, limiting contractors able to work at the venue may be a cost effective means of inducting contractors working at the venue and address any issues arising as a result of poor work practices, particularly given that the venue requires event organisers to maintain responsibility for these issues.

Limiting the number of contractors may also reduce the logistical difficulties associated with co-ordinating the event.

In respect of any reduction in choice for exhibitors resulting from the notified conduct, the tender process undertaken by the BIA would appear to provide a level of competition among suppliers for the provision of the relevant services, both initially and for the life of contracts entered into.

In addition, as noted, the BIA has advised that it provides exemptions for exhibitors wishing to engage a company or business to construct a custom built stand.

On balance, it is not clear that that the likely benefit to the public from the conduct will not outweigh the likely detriment to the public from the conduct.

On the basis of the information provided, it is not intended that further action be taken in this matter at this stage.

Should you wish to discuss the notification further, please do not hesitate to contact Gavin Jones on 03 9290 1475.

A copy of this letter has been placed on the ACCC's public register.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Scott Gregson', with a long horizontal flourish extending to the right.

Scott Gregson
General Manager
Adjudication Branch