



**Australian  
Competition &  
Consumer  
Commission**

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Our Ref: C2007/818  
Contact Officer: Shane Chisholm  
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16 October 2008

Mr Bill Noonan  
Branch Secretary  
Transport Workers Union  
PO Box 203 Port  
Melbourne VIC 3207

Dear Mr Noonan

**Re: Construction Material Producers Association application for authorisation A91047**

On 29 August 2007, the Australian Competition and Consumer Commission (the ACCC) issued a determination in respect of the application for authorisation lodged by the Construction Material Producers Association (CMPA).

As you are aware, the ACCC granted authorisation to the CMPA for an agreement to develop and publish two standard form contracts to be used by its members. These standard form contracts are for CMPA members to use when contracting with:

- certain contractors for State government authorities or private principals, for the supply of construction materials and
- owner drivers for the transport of construction materials.

The ACCC granted authorisation in respect of these arrangements on condition that:

- the CMPA engages an independent consultant (who was not involved in the development of the owner drivers contracts), with experience in small business contracts, to undertake a review of the owner drivers contract between 6 to 12 months after the owner drivers contract is implemented. The review must consider whether, when looking at the experience of implementing the owner driver contract, the contract can be improved and/or simplified, taking into account the views of interested parties, including the CMPA, relevant owner drivers and the Transport Workers Union and
- the CMPA must respond to any recommendation made by the review in good faith, and report to the ACCC on the outcomes of the review and the actions taken by the CMPA in response to the review.

As it has now been 12 months since the ACCC issued its determination granting authorisation, we sought the advice of the CMPA in relation to the progress of an independent review of the owner drivers contract.

In its response, the CMPA advised that it has only sold six contracts for use with owner drivers for the transport of construction materials and that it is unaware of any members who have used the contract. A copy of this response is attached. I have now asked the CMPA to advise me when the contracts start being used by its members.

If you have any information which may assist the ACCC's assessment of this matter, I would appreciate receiving a response from you by 31 October 2008.

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 Shane Chisholm on (02) 6243 1252.

Yours sincerely

A handwritten signature in black ink, appearing to be 'R Chadwick', with a horizontal line extending to the right.

Dr Richard Chadwick  
General Manager  
Adjudication Branch