



**Australian
Competition &
Consumer
Commission**

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Our Ref: C2008/1626
Contact Officer: Sharon Clancy
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21 November 2008

Mr Charles Massy
Associate
GPO Box 3114
Brisbane QLD 4001

Via email: charlesm@hallpayne.com.au

Dear Mr Massy

**Application for authorisation (A91103) lodged by the Construction, Forestry,
Mining and Energy Union (CFMEU)**

I refer to the above mentioned application for authorisation lodged with the Australian Competition and Consumer Commission (the ACCC) on 6 October 2008.

Revised timetable

In your letter of 14 November 2008 you advise that your client will not be in a position to provide a substantial response to the submissions received from interested parties until mid-January 2009. You therefore request that the ACCC publish a revised timetable for the progression of the CFMEU's application for authorisation.

As you are aware, under section 90(10) of the *Trade Practices Act 1974* (the Act), the ACCC must determine an application for authorisation within 6 months of receiving an application otherwise the ACCC is deemed to have granted the authorisation.

The ACCC progresses its assessment of applications in a timely manner and to be consistent with the statutory time period the ACCC generally aims to issue a draft determination in approximately three months.

In this instance, the ACCC can accept a submission from your client by 13 January 2009. I note, however, that the ACCC's ability to take into account a submission after this date may be limited, given the statutory deadline.

Please find below an updated indicative timetable for the matter.

6 October 2008	Lodgement of application and supporting submission.
14 October 2008	Public consultation process begins.
31 October 2008	Closing date for submissions from interested parties.
14 November 2008	Request from the applicant for an extension to the deadline for providing a response to the issues raised in the public consultation process.
13 January 2008	Applicant responds to issues raised in the public consultation process.
January / February 2009	ACCC draft determination issued.
February / March 2009	Public consultation on draft determination including any conference if called.
March 2009	ACCC final determination issued.

Request for further information

In addition to any comments you may wish to provide in response to submissions from interested parties, I would appreciate your response to the following questions:

1. How many members does the Queensland branch of the CFMEU currently have?
2. The CFMEU advises that under the proposed arrangements, a committee of 3 to 5 owner drivers will undertake negotiations, on behalf of all members of the group, with earth moving contractor targets. Please provide further details about:
 - when and how an earthmoving contractor target will be advised of the identity of all members of the collective bargaining group.
 - how often negotiations are proposed to take place with each earthmoving contractor target
 - whether all work carried out by members of the group for an earthmoving contractor target will be subject to the collectively negotiated rates, terms and conditions
 - whether different rates, terms and conditions are proposed to be negotiated according to factors such as the duration or complexity of the job, the material to be transported or the experience of the owner driver?
3. Please outline the process that will be followed by the group if an earthmoving contractor target decides not to deal with the collective bargaining group, or if collective negotiations commence but an agreement cannot be reached?
4. Please provide further details about the proposed role of the CFMEU in the collective negotiation process.
5. Please explain the basis on which the CFMEU states that it does not envisage a significant increase in membership if the authorisation is granted.

I request your response to these questions and the issues raised by interested parties by **13 January 2009**.

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 Sharon Clancy on (02) 6243 1217 (or at sharon.clancy@acc.gov.au) or Kristy Randall on (02) 6243 1061 (or at kristy.randall@acc.gov.au).

Yours sincerely

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

Dr Richard Chadwick
General Manager
Adjudication Branch