



 Australian
Competition &
Consumer
Commission

GPO Box 3131
Canberra ACT 2601
23 Marcus Clarke Street
Canberra ACT 2601
tel: (02) 6243 1111
fax: (02) 6243 1199
www.accc.gov.au

Our Ref: C2008/477
Contact Officer: Danielle Staltari
Contact Phone: 02 6243 1362

23 April 2008

Ms Lisa Fowkes
Chief Executive Officer
Job Futures Ltd
281 Clarence Street
Sydney NSW 2000

By email: Lisa.Fowkes@jobfutures.com.au

Dear Ms Fowkes

**Job Futures' applications for authorisation A91084 & A91085
- request for interim authorisation**

The Australian Competition and Consumer Commission (the ACCC) has decided to grant interim authorisation in relation to certain elements of the applications for authorisation lodged by Job Futures Ltd (Job Futures) on 25 March 2006.

Interim authorisation protects the arrangements for which authorisation is sought from legal action under the relevant provisions of the *Trade Practices Act 1974* while the ACCC considers and evaluates the merits of the application.

Interim authorisation can not extend to any conduct engaged in by Job Futures and its members with respect to collective tendering for employment contracts prior to this decision. Therefore this interim authorisation does not apply to the making of, or giving effect to, any contract, arrangement or understanding which occurred prior to the date of this interim authorisation.

Authorised Conduct

The ACCC has decided to **grant interim authorisation** to allow Job Futures to:

1. prepare tender proposals with members of Job Futures (members) under which Job Futures will subcontract work to members and lodge such tenders on behalf of members. Proposals may include agreements as to the price that will be tendered and the price paid for services provided by members to Job Futures, and agreements as to the territories in which members and Job Futures will tender to

deliver services, with respect to the upcoming tender expected to be released in the second half of 2008, by the Department of Education, Employment and Workplace Relations for employment service contracts, including:

- Employment Services Contract (Job Network)
- Employment Services Funding Deed (Personal Support Program, Job Placement Education and Training, Disability Employment Network (uncapped), Green Corps)
- Remote Services Deed and
- Australian Apprenticeship Access Program.

(Collectively referred to as the “Employment Contracts”)

2. allow a member to participate in the preparation of a tender proposal in relation to an Employment Contract on condition that the member agrees not to tender directly on its own behalf for that Employment Contract.

In granting interim authorisation, the ACCC noted that the majority of the preparatory work for the request for tender is expected to take place between May and August 2008 and that some of this work involves collective conduct by Job Futures and its members.

Conduct not authorised

The ACCC has made a decision **not to grant interim authorisation to Job Futures:**

to terminate a subcontract with a member in relation to an existing Employment Contract where that member has proposed or intends to tender directly on its own behalf for a future Employment Contract.

Next steps

The next step in the process is for the ACCC to release a draft determination, which is expected to be issued in May/June 2008. The draft determination will take account of any submissions from Job Futures and interested parties and will indicate the ACCC’s preliminary views on the merits of the application. The ACCC will provide both Job Futures and interested parties with the opportunity to provide a further submission on the draft determination before the ACCC issues its final decision.

The ACCC may review its decision on interim authorisation at any time. In this regard the ACCC will reconsider this decision at the time of issuing its draft determination.

The ACCC’s decision in relation to interim authorisation should not be taken to be indicative of whether or not final authorisation will be granted by the ACCC.

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 Danielle Staltari on 02 6243 1362.

Yours sincerely

A handwritten signature in black ink, appearing to read 'D Hatfield', written in a cursive style.

David Hatfield
Acting General Manager
Adjudication Branch