

Kott Gunning
LAWYERS



29 August 2008

Australian Competition & Consumer Commission
GPO Box 3131
CANBERRA ACT 2601

Attention: Darrell Channing, Director
Adjudication Branch

By Email: adjudication@acc.gov.au

Our Ref: DS:lm:PEP-CS:71071

DS:705837_1

Writer: Davide Scalzi
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Your Ref: Job Futures Ltd

Partner: Mark Fatharly
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Dear Sirs

**JOB FUTURES LTD – APPLICATIONS FOR AUTHORISATION (A91084-A91085)
FURTHER SUBMISSIONS IN RESPONSE TO DRAFT FINAL
DETERMINATION**

We refer to the ACCC draft final determination sent to us on 26 June 2008. We also refer to your letter of 26 August 2008 attaching submissions made by Job Futures on 22 August 2008 to the ACCC outlining its proposal for new non-compete arrangements. As you are aware, we act on behalf of PEP Community Services Inc (“PEP”) and Community First International Ltd, formerly Community First Inc (“CFI”).

We seek to respond to the submission made by Job Futures outlining its proposal for new non-compete arrangements. We confirm our previous submission that the length of time of the authorisation should only be for such period necessary to enable the preparation for the tender (due to be lodged in or about October 2008) through to the end of the contract period. As the contracts proposed to be tendered for by Job Futures and its members would operate (assuming success) for the three year period from 1 July 2009 until 30 June 2012, any further tenders beyond that period or any extension of the contract period should, we respectfully submit, be the subject of separate authorisation applications at which time the appropriateness of any further authorisation may be reconsidered.

Accordingly, we submit that an authorisation period of 8 years is too long and not reflective of the anticipated contractual period. The authorisation should expire no later than 30 June 2012.

Under the arrangements the subject of this proposed authorisation, Job Futures tenders on behalf of its members to DEEWR to provide employment services on behalf of DEEWR. Job Futures is the head contractor of any contracts awarded by DEEWR for provision of employment services. Job Futures then contracts with its members who then provide the employment services on behalf of Job Futures in fulfilment of its head

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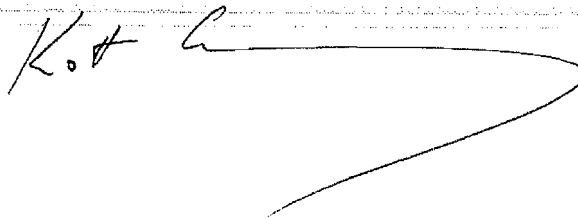
contract with DEEWR. That member is classified as a subcontractor. Our understanding, based on the current appraisal process used by DEEWR, is that when DEEWR assesses the performance of employment service providers it is Job Futures whose performance is rated and checked not the subcontractor who provides the service on behalf of Job Futures itself. It is then Job Futures who has the advantage over any subcontractor that may wish to exit the arrangement and compete independently with Job Futures in a new tendering round for DEEWR head contracts. This is because it is Job Futures who gets the rating from DEEWR and the subcontractor has no history and is disadvantaged in that it must prove its ability against the rating achieved by Job Futures, even though the rating achieved by Job Futures was achieved because of the service the subcontractor performed under the subcontract with Job Futures.

The rolling performance criteria used by DEEWR leaves ample time under a three year contract for Job Futures to have a performance hold over a contract. We respectfully submit that it does not need eight years to achieve this.

The subcontractor is further disadvantaged in its ability to compete with Job Futures if Job Futures is entitled to allocate a small part of the contracted services (up to 30%) to another member. Job Futures are effectively attempting to have another member up and running and sharing the performance rating of the incumbent exiting member so as to improve its chances of competing successfully against the exiting member for any new head contracts. For the exiting member to then compete with Job Futures for any new head contracts offered by DEEWR it therefore becomes very difficult to compete because it has no rating history as an entity separate to Job Futures.

If you require clarification of any matters, please do not hesitate to contact the writer or Mark Fatharly.

Yours faithfully
KOTT GUNNING

A handwritten signature in black ink, appearing to read 'K. Gunning', with a long, sweeping underline that extends to the right.