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19 September 2008

Mr David Hatfield
Acting General Manager
Adjudication Branch
Australian Competition & Consumer Commission
GPO Box 3131
CANBERRA ACT 3601

Dear Mr Hatfield

**RE: Construction Material Processors Association (CMIPA)
Application for Authorisation A91047**

Following your correspondence dated 29 August 2008, I am writing to advise you of the Construction Material Processors Association's (CMIPA) progress regarding conditions applied to the authorisation granted by the ACCC on 29 August 2007.

Since the authorisation was granted, the CMIPA has only sold six contracts for use with owner drivers for the transport of construction materials. We have provided complimentary hardcopies of the contract to a number of members, and intend to publish it again for our members in the coming year. We are unaware of any members who have used the contract.

Our feedback indicates that this is due to the nature of the legislation. The legislation (the *Owner Drivers and Forestry Contractors Act*) carries no direct penalties for failing to have a contract and only allows that fact to be taken into account if a dispute arises. Our feedback indicates that owner drivers see no benefit from the introduction of any contract and are satisfied with the current situation. The supplier's ability to force drivers to enter into the contracts is limited to refusing to engage drivers who do not do so but this would damage the supplier more than the driver. Although there are substantial benefits to both parties from entering into the contract as long as the drivers do not wish to do so the contract will remain unutilised.

The CMIPA will continue to support the use of the contract but until there has been measurable market penetration upon which recommendations for improvement can be made we see no benefit in reviewing the implementation. We believe that a review may be more useful in 12 months if we can get more market penetration.

Yours sincerely



Ron Kerr
Honorary CEO

