

Our Ref: A91354 - A91357
Contact Officer: Tanya Hobbs
Contact Phone: (02) 6243 1029



**Australian
Competition &
Consumer
Commission**

3 October 2013

Mr Simon McRae
National Manager
Ethical Clothing Australia

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

By email: Simon@ethicalclothingaustralia.org.au

Dear Mr McRae

Homeworker Code Committee Incorporated - Revocation & Substitution - A91354 - A91357 - final determination

The Australian Competition and Consumer Commission (the ACCC) has issued a determination in respect of the application for authorisation lodged by the Homeworker Code Committee (the Code Committee) on 21 February 2013 (as amended).

A copy of the ACCC's determination and summary of its reasons is attached. For the reasons set out in its determination, the ACCC has decided to grant authorisation until 26 October 2018.

While the ACCC has found that, on balance, the net public benefit tests have been met in relation to the Homeworkers Code of Practice (the Code), the ACCC strongly encourages the Code Committee to take the following measures prior to any future application for authorisation:

- a) consider a change to the name of the Code to better reflect its application to all categories of workers in the industry, not simply homeworkers;
- b) ensure that the entirety of the Code is prominently and easily accessible on its website;
- c) consider appointing an independent non-executive chairperson to chair its board on an ongoing basis;
- d) consider appropriate refinements to its dispute resolution processes;
- e) record statistics regarding the utilisation of its dispute resolution mechanisms as a basis for refinements to be incorporated into any future application for authorisation. These statistics may include:
 - (i) the number of accreditations sought each year and the number granted or not granted;
 - (ii) the number of complaints received each year from audited suppliers, businesses seeking accreditation, retail signatories and other sources;
 - (iii) the number of complaints received each year which were affected by clause 14.1 of the dispute resolution process;
 - (iv) the number of complaints received each year which were affected by clause 14.2 of the dispute resolution process; and
 - (v) the number of complaints received each year which progress to mediation under clause 14.11;

- f) in addition to its current operational statistics, record more detailed statistics relating to the outcome of its accreditation process generally. These may include:
- (i) the number of suppliers which are not outworkers audited each year, where the auditing has occurred because another business has sought accreditation; and.
 - (ii) the number of auditing visits which are conducted by the TCFUA each year of suppliers which are not outworkers;
 - (iii) the number of these suppliers which pass or do not pass the auditing each year;
 - (iv) the number of businesses which are found to have breached workplace laws upon the first auditing visit;
 - (v) the number of businesses which are found to have at least one serious breach of workplace laws upon the first auditing visit. Serious breaches may include risk of death, serious injury or illness or a pattern of significant underpayment of workers' entitlements;
 - (vi) the number of outworkers whose working conditions are audited by the TCFUA as part of accreditation processes each year; .
 - (vii) the number of outworkers each year whose working conditions are found to breach workplace laws upon the first auditing visit; and
 - (viii) the number of outworkers each year whose working conditions are found to be serious breaches of workplace laws upon the first auditing visit.

Application for review

Pursuant to section 101 of the *Competition and Consumer Act 2010*, a person dissatisfied with this determination may apply to the Australian Competition Tribunal (the Tribunal) for a review of the determination. An application for review must be made within 21 days of the date of this determination; that is, on or before 24 October 2013. If no application for a review is lodged by this date, the ACCC's determination will come into force on 25 October 2013.

An application for a review of the ACCC's determination should be lodged directly with the Tribunal. The Tribunal is a separate body from the ACCC and is located within the Federal Court of Australia.

For further information about the Tribunal's process to hear applications for review of ACCC determinations please refer to the Tribunal's website at www.competitiontribunal.gov.au.

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 Tanya Hobbs on 02 6243 1029.

Yours sincerely



Dr Richard Chadwick
General Manager
Adjudication Branch