

Hayley Parkes
Director
Adjudication Branch
Australian Competition & Consumer Commission

5 March 2013

Dear Hayley

Response to Submission received from the TFIA dated 1 March 2013

The TFIA submission contains a significant number of inaccurate statements and assertions made without supporting evidence. The submission also continually conflates the legal requirements under the Federal Award and related legislation with the Homeworker Code of Practice which is a voluntary scheme.

In addition the TFIA, as a Homeworker Code Committee member, have been involved in the Review of the Homeworker Code of Practice (the Code) since it began in 2010. They were involved in agreeing the objectives of the Review and in subsequent meetings of the Committee since then where recommendations and decisions were made regarding the revised Code.

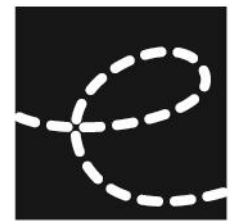
We have tried to address the concerns expressed in the TFIA letter below.

The TFIA make reference to the trade union having unique and unprecedented access to local manufacturers but this is misleading. Firstly the 'right of entry' that the union has is part of the Federal Award (Textile, Clothing, Footwear and Allied Industries Award (2010)) not the Code of Practice. Secondly the trade union will arrange a time with the applicant to conduct a compliance visit as we endeavour to work with businesses to meet their legal obligations.

The TFIA make reference to a decline in the number of businesses involved in the TCF sector since 2006 and attempt to link this to the accreditation process associated with the Code of Practice. It's well-known that the removal of government subsidies for the TCF industries (i.e., removal of import tariffs) was a major driver in the TCF industry moving offshore.

With respect to recent times the high Australian dollar and the competition from cheap imports have put local manufacturers under a lot of pressure to remain competitive. To assert that a voluntary accreditation scheme that has only received Government funding since 2008 is a major contributing factor is a gross exaggeration and ignores other well-known trends regarding the TCF industry over many years.

The TFIA makes reference to some high profile manufacturers who are planning to or have closed down their local manufacturing and moving



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offshore. What the TFIA don't refer to is that all of these companies, except Scanlon & Theodore, were already doing most of their manufacturing offshore already. We are also aware that at least one of the manufacturers confirmed that they were moving offshore because of a lack of innovation and shortage of the right technology in Australia.

The TFIA make reference to the time consuming process of accreditation which they claim takes 12-18 months. As the organisation responsible for accreditation the assertions made by the TFIA are totally misleading and inaccurate. The length of time for accreditation is dependent on the co-operation of the applicant and their manufacturing circumstances, for example if they do all their work 'in house' or if they give work out. In practice we complete most applications in significantly less time than 12-18 months.

An internal administration audit carried out on the 49 applications that became accredited over the 2011-12 calendar years found that the average time to complete an accreditation was just over 6 months, and if you removed the eight companies that took more than 12 months, this reduced to just in excess of 4 months.

There are a small number of applicants where the process has taken more than 12 months but this is because we are dealing with large and complex supply chains or simply the applicant refuses to co-operate with the accreditation process.

The lack of co-operation from a small number of applicants has been such an issue in delaying accreditation, as it was draining our limited resources away from assisting genuine applicants, that the Committee instructed the ECA accreditation team to take steps to amend our accreditation policy so as to enable us to suspend or remove these un-cooperative businesses.

The TFIA make reference to being removed from the Homeworker Code Committee (Committee) by the TCFUA and ECA management. Firstly the Committee, which includes both trade union and employer representatives, voted to remove the TFIA not the TCFUA. Secondly ECA has no vote on the Committee; it administers and promotes the Code on behalf of the Committee.

The TFIA make reference to the Code expanding its remit beyond homeworkers whereas the Code has always covered workers as well as homeworkers in the TCF sector, however the emphasis has always been on the most vulnerable workers such as homeworkers (see previous submissions).

The TFIA make reference to the burden on business and the unnecessary paperwork such as statutory declarations that are required. The majority of the paperwork required for accreditation is actually documents that are already required under law (e.g. wage records etc.). With respect to statutory

declarations the Committee sought legal advice in 2010 regarding an alternative but was told that this was the most effective way to verify what applicants were claiming. The TFIA is aware of this and has proposed no viable alternative.

The TFIA make reference to the difficulty of business understanding their responsibilities under the 'TCF Regime' which appears to refer to their legal obligations under the Award. We have full time Accreditation Advisors and accreditation administration support that provides advice and assistance for businesses seeking or maintaining accreditation.

We also have produced a number of online tools and forms to help business. In response to suggestions from industry members of the Committee, in particular the TFIA, we commissioned a plain English Award Guide to assist businesses understand their obligations under the Award. We also translated the Guide into Vietnamese and Chinese to assist makers of whom many are from these communities. We have also produced other material including a compliance check list and Guidelines to accreditation for applicants.

The TFIA refer to the 'fear surrounding an ECA compliance audit' because of the difficulty understanding the TCF Regime or what are their legal obligations. Firstly the ECA accreditation process is voluntary so it is up to an individual business if they choose to apply. Secondly we are well aware that many small businesses may not be complaint with the law but if these are not serious breaches we try and work with those businesses to get them compliant. It's not in the interests of the trade union, ECA or our employer representatives to crack down on those businesses who apply for accreditation and are largely doing the 'right thing' as they will simply close down or move offshore.

The TFIA refer to having no choice but to accept a TCFUA compliance visit but this ignores the fact that the Code is voluntary so you have a choice if you want to participate or not and, it's made clear in the application form and advice given by the ECA Accreditation Advisors.

The TFIA complain that the once accredited with ECA they 'often remain invisible to the sector' which is simply untrue. All businesses that are accredited are placed on the ECA website and promoted at industry events and festivals. They are also if they chose able to display the ECA logo on their swing tags and on their website and other promotional material. In addition ECA launched a major consumer campaign in October 2011 that was supported by accredited brands and received national television and widespread industry media coverage. Over the past 12 months we have moved to increase our use of social media (e.g. Facebook) to promote our accredited brands through festivals, fashion shows and graduate exhibitions.

The TFIA refer to lack of competition from any similar accreditation scheme but that is because there is no other comparable accreditation scheme for the TCF sector with a rigorous compliance scheme that exists anywhere else in the world. The reality is that the TCF industry in Australia has created our own scheme based on the Homeworker Code of Practice.

The TFIA refer to a feasibility study commissioned by the former TCF Industry Innovation Council on an Ethical Quality Mark that they claim wasn't supported by the TCF industry however the TFIA are not members of the Council and no formal recommendations were made before the Council was disbanded in 2012.

The TFIA claim that there is little or no increase in sales as a result of accreditation but even should this be the case, this is not a primary responsibility of ECA. We promote businesses who are doing the right thing by ensuring their supply chain is compliant, our main focus is to ensure all workers are receiving fair wages and decent working conditions. We do not promise increased sales through accreditation.

In addition Ethical Clothing Australia only rebranded from the No Sweat Shop Label in 2010 in response to employer representatives on the Committee. Since then with a declining budget in real terms we have endeavoured to promote our accredited brands (see previous reference to promotion above). However it needs to be kept in mind that the primary focus of Ethical Clothing Australia is accreditation.

With accreditation being our primary focus this is where the majority of our resources are focused. With our funding from Government we are also able to significantly subsidise the cost of accreditation, which is important as we have many small businesses apply. The cost of accreditation which begins at \$300 and is typically \$1000 to \$2000 is a fraction of the real cost of processing an application.

The TFIA refer to the voice of industry being silenced which is simply without merit. The TFIA as a member of the Committee have been involved and supported the Code Review since it began in 2010. They have agreed the objectives of the review and various decisions and recommendations that have been made since then. They also until only recently supported the authorisation of the Code and hadn't spoken up in meetings of the Committee stating they would oppose it.

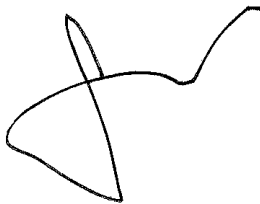
We should point out that the TFIA are not the only employer representative who is on the Homeworker Code Committee. The Committee also is made up of AiG (the key national body representing manufacturing), the NSW Business Chamber (representing businesses in NSW where there a lot of TCF manufacturers), individual employers Cue Clothing and Pacific Brands

Workwear, two of Australia's largest manufacturers, and Jets Swimwear, as well as members of the TCFUA.

The TFIA have been aware of the issues surrounding the Code Review for some time as explained above and had opportunities to raise these at Committee meetings since the Code Review. They have had more than a month to make a formal submission to the draft Code of Practice but have chosen not to.

In conclusion we reject the allegations and assertions made by the TFIA regarding the Code of Practice and the ECA accreditation program. We believe as is evident from the growing number of accredited brands, including many well-known Australian names, and the growing support from young and upcoming designers that there is wide spread industry support for an ethically based TCF manufacturing sector in Australia and the Homeworker Code of Practice.

Yours sincerely

A handwritten signature in black ink, consisting of a large, stylized loop on the left and a series of smaller, connected strokes extending to the right.

Simon McRae
National Manager
Ethical Clothing Australia