

5 March 2013

Dr Richard Chadwick
General Manager
Australian Competition and Consumer Commission
Adjudication Branch
Level 35 / 360 Elizabeth Street
Melbourne VIC 3000

By Email: adjudication@acc.gov.au
Contact Officer: Tanya Hobbs

ACCC Ref: A91252-A91255
Request for Interim Authorisation of Homeworkers Code of Practice

Dear Dr Chadwick and Ms Hobbs,

The Textile, Clothing and Footwear Union of Australia ("TCFUA") writes in support of the application by Homeworkers Code Committee for urgent interim authorisation of the Homeworkers Code of Practice.

The TCFUA is the pre-eminent national union which represents the industrial interests of workers, including outworkers, in the textile, clothing, footwear and associated industries. The TCFUA is committed to ensuring that all workers in the TCF industry receive their lawful entitlements under safe and healthy systems of work.

The TCFUA is also a founding member of the Homeworkers Code of Practice, and I am a member of the Homeworkers Code of Practice Committee. The Code, administered by Ethical Clothing Australia (ECA), encourages manufacturers to become accredited to the Code and commit to fully mapping their own supply chains. The Code assists participants to become compliant with minimum award and legal requirements relevant to TCF industry. The union is responsible for all the compliance checks required to accredit companies under this scheme.

Since its commencement in 1997, the Homeworkers Code of Practice has improved the level of compliance in the TCF industry with minimum award and legal obligations and, as a result, has improved the wages and conditions of thousands of workers, in the formal and informal sectors of the TCF industry. Over the last 12 months to two years in particular, the TCFUA has observed small but not insignificant change in the levels of compliance with minimum award conditions for outworkers. The TCFUA is of the view that the Code is of significant benefit to these workers and their families, and therefore strongly supports the granting of interim authorisation as requested.

It is also the TCFUA's view that there is benefit to the businesses accredited with the Homeworkers Code of Practice (who voluntarily participate as retailer signatories or accredited businesses) through the use of ECA labelling and the promotion of their businesses and supply chains as compliant with award and legal requirements. Interim authorisation ensures that these businesses may continue to participate in the accreditation scheme without fear or risk of potential breaches of the *Competition and Consumer Act 2010*.

I understand that the ACCC has received a number of submissions, including confidential submissions, opposing the request for interim authorisation. The TCFUA disagrees with the reasons put forward for opposition (as conveyed to us) and that those reasons are based on misinformation and fundamental misunderstandings of the requirements of the Code, and of award and legal obligations.

In relation to the opposing submissions made, we intend to address the following five key issues:

1. Involvement of the TCFUA;
2. Compliance costs and paperwork involved;
3. Impact on suppliers, who do not seek accreditation;
4. Impact on in-house workers; and
5. Numbers of outworkers.

Involvement of the TCFUA

The Homeworkers Code of Practice is a joint union-industry initiative and, as indicated above, the TCFUA is responsible for all the compliance checks.

We have reviewed the public submission made by Jenny Bannister Pty Ltd. We are also aware of, but have not received a copy of, a submission made by Melbourne Made Pty Ltd.

It is the case that we encouraged Ms Bannister to address her business' breaches of the Clothing Trades Award 1999 (one of the predecessor awards to the modern TCFAI Award 2010), in order to become compliant. At no time, did we apply pressure for her to become accredited with ECA.

In respect to Ms Bannister's imputation that the Board of Reference (which Ms Bannister incorrectly identifies as the Board of Registration) is a union dominated body, the Board of Reference is an independent board of the Fair Work Commission, on which there are an equal number of union and industry representatives. In addition, the General Manager of Fair Work Commission is also member of the BOR. We understand that Ms Bannister's business' registration was withdrawn as she refused to comply with numerous requests by the BOR to comply with the requirements of registration (which included providing certain information on her application form).

Compliance Costs and Paperwork

The paperwork requirements are Award requirements. In respect of the statutory declaration requirements of the Code, these requirements are not required for each order. Furthermore, the review of the Code and amended application will address simplification of the statutory declaration requirements.

Impact on Suppliers

The TCF industry is made up of complex supply chains that are wide and long, often with outworkers at the end of that chain. Work can pass through all levels before it reaches an outworker. There is no requirement in the Code for suppliers to become accredited, but there is a requirement that suppliers are compliant with minimum legal requirements. Businesses seeking accreditation do so for the entire supply chain, as the assurance of the ECA label is an assurance to consumers that minimum standards are met in the manufacturing process of the products they are purchasing. If an accredited business' suppliers are not compliant with minimum standards, the fact of accreditation has little, if any, value.

Impact on in-house Workers

For the same reason as above, the Code requires checking and compliance of in-house workers within the supply chain. Numerous independent studies, report and senate enquiries have emphasised that, in order to reach and ensure fair conditions for outworkers, the entire supply chain must be transparent.

Numbers of Outworkers

Based on our knowledge of the industry and our compliance and education work, the TCFUA estimates that the ratio of factory based workers to outworkers within the clothing industry currently varies between a ratio 1:4 and 1:10 depending on the particular supply chain. It is notoriously difficult to state with any precision the numbers of outworkers in the TCF industry. There is no evidence that numbers of outworkers have reduced. The TCFUA has been in direct contact with 1,184 outworkers over the last 18 months. Outworkers continue to be some of the most vulnerable and exploited workers in Australia.

The TCFUA therefore urges the ACCC to grant the interim authorisation request as a matter of urgency. The significant benefits of the Homeworkers Code of Practice are well established by ECA's own statistics and reports in relation to compliance outcomes and outworker contacts. There is a trend in the global industry towards more transparent and ethical supply chains. Local industry and jobs will not survive through trying to compete against low wages and sub-standard conditions in developing countries, but through differentiation of the domestic product of high quality innovative and ethically made products.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Michele O'Neil', written in a cursive style.

Michele O'Neil
TCFUA National Secretary