



**Australian
Competition &
Consumer
Commission**

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15 March 2013

Dear Sir/Madam

**Homeworker Code Committee application for reauthorisation of amended Code
– interested party consultation**

The Australian Competition and Consumer Commission (the ACCC) is seeking submissions in relation to the Homeworker Code Committee's (HWCC) application for reauthorisation of a revised version of the Homeworkers Code of Conduct (the Code) for five years.

Request for submissions

The ACCC is seeking submissions on the likely public benefits or any public detriment (such as an effect on competition) of the revised version of the Code. In particular, the ACCCC is seeking evidence relating to the effect of the operation of the previous Code and any changes to the potential benefits and detriments of the Code as a result of the revisions.

The ACCC notes that the authorisation process should be as open and transparent as possible, particularly so that claims made by those supporting an application can be tested and interested parties have the opportunity to put their views. In the case of submissions, the ACCC may give less weight to confidential information (e.g. where the ACCC has not been able to test the information).

Benefits of the Code

A number of submissions received by the ACCC so far have claimed that the Australian textiles, clothing and footwear industry has changed since the Code was initially developed. These submissions claim that the changes have substantially reduced the number of homeworkers employed in the industry. In addition, submissions have noted that alternative methods exist to reduce the exploitation of homeworkers and workers such as the Fair Work Ombudsman, Fair Work Australia and the Textiles Clothing and Footwear Union of Australia's (TCFUA) powers under legislation and the Award. Accordingly, submissions have questioned the benefits delivered by the Code.

The ACCC is seeking submissions, including evidence, that set out whether or not the Code has a positive impact in reducing exploitation and, if so, how the Code does or does not achieve that benefit.

The ACCC is also seeking evidence regarding any other benefits which may arise under the Code, including those set out in the HWCC submission in support of its application.

Detriments of the Code

Submissions provided to the ACCC to date have highlighted the costs of compliance with the Code as a potential detriment. The HWCC has advised that the revised Code seeks to reduce the paperwork required in order to comply with the Code.

The ACCC is seeking to better understand the magnitude of any additional costs that arise due to compliance with the Code (above the costs of compliance with other obligations, such as those imposed by law) for:

- retailers which are signatories under the Code
- suppliers which are accredited under the Code
- suppliers whose customer (e.g. the manufacturer who they supply to) is accredited under the Code.

A distinction should be made between compliance costs and paperwork which are required under the relevant Award or legislation, and extra costs and paperwork which arises from compliance with the Code. For example, the ACCC understands that records relating to providing garment specifications provided to homeworkers or estimating the time taken to sew a garment are not attributable to the Code, rather these records are required by the Award.

Submissions should detail any additional work required to gain accreditation or submit to an audit. For example, any additional paperwork should be identified along with details regarding the time required to complete it.

The ACCC is also seeking evidence regarding any other detriments which may arise under the Code. The ACCC notes that a number of submissions received have referred to the scope of the previous Code and the proposed amended Code. The HWCC has submitted that the amendments to the Code include:

- simplifications to the Code in terms of layout and language, ensuring consistency with the new Textile, Clothing, Footwear and Associated Industries Award 2010 and explicitly including:
 - acknowledgment that the Code covers workers as well as homeworkers; and
 - textile manufacture in the scope of the Code;
- adoption of a privacy policy;
- expansion of the Code's objectives to include outcomes for businesses;
- clarification of the respective roles of the Code Committee, TCFUA and ECA; and
- a reduction in the number of statutory declarations from 6 to 4.

The HWCC submits that these amendments are consistent with the previous aims and objectives of the Code and the practices of the HWCC, ECA and TCFUA. For example, the ACCC understands that under the previous version of the Code, accreditation may be refused where breaches of the Award or legislation are discovered in relation to in-house workers, even if there are no breaches in relation to the employment conditions of homeworkers.

The ACCC is seeking evidence as to whether the relative benefits and detriments of the Code previously found are affected by the amendments to the Code, particularly to the extent that the scope of the Code may have been affected by the amendments.

How to make submissions

The ACCC will take into account relevant information from all previously received submissions. Submissions, including oral submissions, will be placed on the ACCC's public register subject to any request for exclusion. Please see the ACCC's publication [Guidelines for excluding information from the public register](#).

If you intend to provide a submission or a further submission in relation to HWCC's request for reauthorisation please do so by email to adjudication@acc.gov.au by **COB 3 April 2013**. Alternatively, if you would like to provide comments orally, please contact Tanya Hobbs on (02) 6243 1029 or via email adjudication@acc.gov.au to organise a suitable time.

Background to application

In 2011 the ACCC granted authorisation to the Code until 11 March 2013. The HWCC lodged its application for reauthorisation on 21 February 2013, which it amended on 7 March 2013 to take account of proposed revisions to the Code. The ACCC granted interim authorisation to the Code, in the form previously authorised, on 8 March 2013. Interim authorisation remains in place until it is revoked or the ACCC's final determination comes into effect. The ACCC may review the decision to grant interim authorisation at any time, including at the draft determination stage, should the ACCC's assessment indicate that this is appropriate.

The ACCC's decision in relation to the interim authorisation should not be taken to be indicative of whether or not the final authorisation will be granted. A copy of the application, the decision relating to interim authorisation and non-confidential submissions received to date are available on the ACCC's website www.acc.gov.au/AuthorisationsRegister. Please see the ACCC's publication [Authorisation process - the basics](#) for a summary of the authorisation process and how to make a submission to the ACCC.

Timetable

The ACCC will progress its assessment of the application in a timely manner. An indicative timetable is set out below for your information.

Indicative date	Stage in assessment process
21 February 2013	Lodgement of application and supporting submission, including request for interim authorisation.
25 February 2013	Public consultation process regarding interim authorisation begins.
4 March 2013	Closing date for submissions on interim authorisation.
8 March 2013	ACCC granted interim authorisation.
15 March 2013	Public consultation process begins regarding

Indicative date	Stage in assessment process
	reauthorisation of the amended Code.
5 April 2013	Closing date for submissions from interested parties regarding reauthorisation of the amended Code.
April 2013	Applicant responds to issues raised in the public consultation process.
April/May 2013	Draft determination.
May/June 2013	Public consultation on draft determination including any conference if called.
June/July 2013	Final determination.

Please advise if you do not wish to make a submission at this time, but would like to be informed of the progress of the application at the draft and final determination stages. If you are able to, please provide a nominated contact email address for future correspondence.

You can also forward this letter to any other party who may wish to make a submission to the ACCC regarding the application.

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 or adjudication@accc.gov.au.

Yours sincerely



Dr Richard Chadwick
General Manager
Adjudication Branch

List of Interested Parties – Homeworker Code Committee Incorporated – A91354

Department of Education, Employment and Workplace Relations

Department of Finance & Deregulation

Department of Innovation, Industry, Science and Research

Fair Work Australia

Defence Materials Organisation

Department of the Prime Minister and Cabinet

Department of the Treasury

Department of Immigration and Citizenship

The Office of the Australian Information Commissioner

ACT Chief Minister and Treasury Directorate

Department of Further Education, Employment, Science and
Technology

Department for Manufacturing, Innovation, Trade, Resources and Energy

Department of Commerce

Department of Education, Training and Employment

Department of Business and Innovation

Northern Territory Department of Employment, Education and Training

Office of Industrial Relations

Department of Economic Development, Tourism and the Arts

Textile Clothing and Footwear Union of Australia

Council of Textile and Fashion Industries of Australia

Pacific Brands

Jets Swimwear

Cue Clothing Co.

NSW Business Chamber

Australian Industry Group

Choice

Australian Chamber of Commerce and Industry

Business Council of Australia

Australian Retailers Association

National Retailers Association

Fair Wear

Asian Women at Work

Oxfam Australia

Federation of Ethnic Communities' Councils of Australia