



**Australian  
Competition &  
Consumer  
Commission**

Our Ref: A91252-A91255  
Contact Officer: Tanya Hobbs  
Contact Phone: (02) 6243 1029

GPO Box 3131  
Canberra ACT 2601

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23 Marcus Clarke Street  
Canberra ACT 2601

tel: (02) 6243 1111  
fax: (02) 6243 1199

[www.accc.gov.au](http://www.accc.gov.au)

Mr Simon McRae  
National Manager  
Ethical Clothing Australia

By email: [Simon@ethicalclothingaustralia.org.au](mailto:Simon@ethicalclothingaustralia.org.au)

Dear Mr McRae

**Homeworker Code Committee application for authorisation – request for information**

I refer to the Homeworker Code Committee's (Code Committee) amended application for authorisation lodged with the Australian Competition and Consumer Commission (ACCC) on 7 March 2013. I also refer to the Textile, Clothing, Footwear and Associated Industries Award 2010 (TCF Award).

To assist in the preparation of its draft determination, the ACCC is seeking further information or clarification regarding some aspects of the application and the proposed Homeworkers Code of Practice (Code). The ACCC would appreciate the Code Committee addressing the following issues.

1. The ACCC understands that the specific obligations in the Code regarding the content of workers entitlements, such as those in clause 9.4(c) and 9.4(d) of Part 1 of the Code, are intended to reflect only the obligations imposed by the TCF Award and relevant legislation. However, to the extent that future variations of the Award or legislation create inconsistencies with the Code, the ACCC requests clarification as to how potential inconsistencies on the obligations assumed by accredited manufacturers and retail signatories will be addressed in the Code.

For example, a potential solution may be the inclusion of a clause in each part of the Code to the effect that in the event of any inconsistencies between the obligations in the Code and obligations under the TCF Award, the TCF Award will prevail.

2. Clause 4.19 of Part 1 of the Code defines 'work agreement' as 'defined under the TCF Award...'. The TCF Award does not define 'work agreement'. However, this term appears to be analogous to 'written agreement' which is defined in clause D.3.2 of Schedule D to the TCF Award. The term 'written agreement' is also used in clause 9.4 of the Code but is not otherwise defined.

Please clarify the definition and use of the terms 'work agreement' and 'written agreement' in the Code.

3. Clause 9.4(d) of Part 1 of the Code deals with the extended liability of accredited businesses to unpaid homeworkers. Clause D.7 of Schedule D to the TCF Award deals more extensively and in different terms with the liability of principals in relation to unpaid workers. The ACCC notes that there appear to be a number of inconsistencies between the two clauses.

Please clarify whether clause 9.4(d) is intended to mirror or alternatively supplement clause D.7 of Schedule D to the TCF Award. If clause 9.4(d) is intended to mirror clause D.7 then the addition of the words in bold to clause 9.4(d) may provide this clarity:

If it is shown to the reasonable satisfaction of the accredited business that a homeworke~~r~~r has not been paid by a contractor in accordance with this Agreement, **then in accordance with the TCF Award** the accredited business must pay the homeworke~~r~~r the amount due, and deduct the payment otherwise due to the contractor, where such payment to the contractor is still outstanding.

4. Clause 7.3(a) of Part 2 of the Code refers to dispute resolution including: 'mediation to be conducted by the Chairperson of an Ethical Clothing Trades Council...'. The term Ethical Clothing Trades Council is currently not defined or used elsewhere in the Code.
  - a. Please clarify whether an Ethical Clothing Trades Council means Ethical Clothing Australia, the Code Committee or another entity.
  - b. I note that there is no similar dispute resolution mechanism in Part 1 of the Code which applies to accredited suppliers. Could you provide further information as to why such a dispute resolution was not considered necessary in the case of accredited suppliers.
5. Could you provide the past five annual reports which it has made to the Department of Education, Employment and Workplace Relations.

I would appreciate your response to these issues by **15 May 2013**.

This letter has been placed on the ACCC's public register. If you require further time to address the above issues, or 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