



**Australian
Competition &
Consumer
Commission**

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28 June 2013

Mr Simon McRae
National Manager
Ethical Clothing Australia

By email: Simon@ethicalclothingaustralia.org.au

Dear Mr McRae

**Homeworker Code Committee Incorporated - Revocation & Substitution
A91354 - A91357 - PRE-DECISION CONFERENCE**

In an email received on 25 June 2013 by the Australian Competition and Consumer Commission (the ACCC), Technical Fabric Services Australia (TFS) has requested that the ACCC convene a public conference in relation to the draft determination issued by the ACCC on 21 June 2013 proposing to grant authorisations A91354 - A91357. In particular, TFS wishes to raise the following issues at the pre-decision conference:

- for businesses in federal government supply chains the code is mandatory not voluntary, even if no outworkers are used, since there are no equivalent demands in government procurement policies for overseas supply chains, the costs present a competitive disadvantage with no benefit,
- despite the extension to the Code to include more textiles businesses, no evidence has been presented that workers in textile mills are subject to below award conditions,
- the Code Committee has not engaged in sufficient industry consultation,
- the Homeworker Code Committee is seeking to extend the Code to companies which don't use homeworkers, in particular textiles companies,
- the TCFUA is not conducting the audits under the Code correctly, and
- there is not enough evidence that the Code is effective or necessary.

As you are aware, the draft determination follows an application for authorisation to permit the continued operation of the Homeworkers Code of Practice. The ACCC concluded in its draft determination that on balance, it was satisfied that the public benefit likely to flow from the proposed arrangements would outweigh the likely anti-competitive detriment and proposed to grant authorisation to the application.

A pre-decision conference provides a valuable opportunity for applicants and interested parties to make public oral submissions to the ACCC about its draft determination.

The ACCC will hold the conference on **Thursday 1 August 2013**, at the ACCC's Melbourne office at Level 35, The Tower, 360 Elizabeth Street, Melbourne. Video conference links have also been arranged to allow interested parties to attend the conference at the ACCC's offices in Brisbane (Level 24, 400 George Street, Brisbane) and Sydney (Level 20, 175 Pitt Street, Sydney). Video conference links to other capital cities may also be arranged on request.

The conference is scheduled for two hours and will commence at **9:30am AEST**. ACCC Commissioner, Sarah Court, will chair the conference.

Under the *Competition and Consumer Act 2010* (the Act), the conference may be attended by the applicant and other interested parties. Please advise the ACCC of the names of the Homeworker Code Committee's representatives who will be attending and their position titles, and indicate who will be the Homeworker Code Committee's chief spokesperson. Please provide this information by **close of business on 16 July 2013**.

You may address this information to:

The General Manager
Adjudication Branch
Australian Competition and Consumer Commission
PO Box 3131
CANBERRA ACT 2602

You can also notify the ACCC by e-mail to: adjudication@acc.gov.au or by facsimile on 02 6243 1211.

I would also note that, while conference participants may bring outside legal or other professional advisers to assist them, the Act prohibits these advisers from participating in conference discussions.

Attached for your information are procedures usually followed at pre-decision conferences. I note that pre-decision conferences are public and a summary of the points made at the conference will be placed on the ACCC's public register.

A copy of this letter has been placed on the ACCC's public register. If you require any further information in regard to the conference, please do not hesitate to contact Tanya Hobbs on 02 6243 1029.

Yours sincerely



Dr Richard Chadwick
General Manager
Adjudication Branch

AN OUTLINE OF THE PROCEDURES USUALLY FOLLOWED AT CONFERENCES IN RELATION TO APPLICATIONS FOR AUTHORISATION

The Australian Competition and Consumer Commission (ACCC) tries to conduct such conferences as informally, flexibly and speedily as possible.

An interested party attending a public conference may have the assistance of outside legal or other professional advisers, however, they are not entitled to participate in the discussion.

The conference will serve a useful purpose in that it gives the ACCC and all interested parties the opportunity to meet publicly face-to-face to discuss the operation and effect of the applicant's conduct and the ACCC's draft determination. The applicant and/or interested persons have the opportunity to persuade the ACCC to accept their view. The ACCC benefits from direct contact with the parties, and its perceptions of public benefits and detriments are tested in a forum of interested parties where points are often quickly and forcefully made.

1. Preliminary procedures

- (a) When you arrive at the conference you should identify yourself to ACCC staff before the conference begins. Further, please complete the attendance book when arriving at the conference. This assists ACCC staff to identify attendees for the purpose of recording the discussion.
- (b) The Chair (a Commissioner) will open the conference by welcoming those present and outlining the requirements of the *Competition and Consumer Act 2010* and the manner in which the conference will be conducted.
- (c) If you intend to present a written comment (and you are encouraged to do so), it is helpful if the ACCC receives it before the conference date. It can then be copied and distributed at the conference. In this way, both the ACCC and other parties present are assisted, and your submission forms part of the conference record. If you cannot complete the written submission earlier, it is helpful if you come to the conference with extra copies which can be distributed.
- (d) Any document you present without making any request for it to be excluded from the public register will be placed on the ACCC's public register.

If you intend to present a submission at the conference and you wish it (or certain details in it) to be excluded from the public register, you should make your request to the Chair at the time of presenting the document, and you should state in general terms the reason for your request. (See the ACCC's [Guidelines for excluding information from the public register](#)).

2. General procedures

- (a) The public conference has been convened to discuss the draft determination, to canvass points of view and to assist the ACCC's weighing of issues and its interpretation of the information given to it.
- (b) The procedure is discretionary. The Chair controls the order of discussion, and may take particular topics separately, so that all the discussion on any given topic may be heard at the one time.
- (c) The conference is not a court, and there is no right of cross-examination. You may request the Chair to ask questions of other parties present, but the Chair retains the discretion as to whether your questions will be put. The Chair, of course, may also directly question the parties at the conference, and they have discretion whether or not to answer.

- (d) ACCC staff present will make a record of the discussion. This will be in minute form, not a verbatim record. The conference record is placed on the public register, and all who attend the conference will receive a copy.
- (e) When the Chair believes that all present have been given a reasonable opportunity to express their views, he/she may terminate the conference.
- (f) The Chair (and any other Commissioner at the conference) cannot give a final decision at the close of the conference. Each Commissioner is only a representative of the ACCC and is required to report back to the ACCC, which will make the final decision.

3. Other matters

- (a) Following the pre-decision conference, the ACCC will review its draft determination in the light of discussion and further submissions made prior to or at the conference (or within a set period of time after the conference), and will publish its final determination as soon as possible thereafter.

4. Media involvement

- (a) Conferences are not public hearings and the Competition and Consumer Act 2010 limits the right to attend to interested parties. In some cases, members of the media may wish to attend a conference to report on the proceedings. In these instances, the Commissioner chairing will seek the views of the interested parties on whether the attendance of media representatives would restrict interested parties from freely expressing their views. If objections are raised, the Commissioner may ask the members of the media not to attend or to leave the conference.
 - (b) If there are no objections and media representatives do attend, the Commissioner will ask that no quotes are taken from the conference discussion. If quotes from particular parties are desired, they should be approached outside of the conference.
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