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10th July 2013

Dr Richard Chadwick
General Manager
Adjudication Branch
Australian Competition and Consumer Commission
c/- Tanya.Hobbs@acc.gov.au

Re: Reauthorisation of the Homeworkers Code of Practice

ACCC Reference: A91354 – A91357

Dear Mr Chadwick,

Thank you to the ACCC for the opportunity to respond to the draft decision regarding re-authorisation of the Homeworkers Code of Practice.

FairWear warmly welcomes the decision to grant authorisation to the Homeworkers Code of Practice for five years.

FairWear is greatly concerned at the proposal to consider an alternative auditor to the TCFUA for the Code, with the costs to be met by the audited business. Our concerns are numerous, and we fear the outworkers we work with through our various member organisations would be greatly disadvantaged by changes to this aspect of the Homeworkers Code.

One of the greatest strengths of the Homeworkers Code is the reality that the TCF union is the auditing body.

In our previous submissions in April 2013, FairWear outlined the complexity of supply chains that hide the outworker workforce, and the way retailers and fashion houses at the top of supply chains have been able to abdicate responsibility for the wages and conditions of workers making their garments by sub-contracting out their work. These factors have contributed to the vulnerability and exploitation of migrant women outworkers and sweatshop workers in Australia, and are the very reason for the existence of the Homeworkers Code.

A strong, informed and independent auditing process provided by the TCFUA is essential for the effectiveness of the Homeworkers Code to address the exploitation of workers in the TCF industries.

Among the features which make the TCFUA strong, informed and independent are -

- The TCFUA has detailed knowledge of the Australian TCF industries through decades of work with and research of these industries;
- The TCFUA is a registered employee organisation, and has unique access to workplaces and records through the Fair Work Act 2009 and the Textile, Clothing, Footwear and Associated Industries Award 2010;
- The TCFUA is well aware of the variety of ways companies have sought to hide non-compliance and make their workforce difficult to find;
- The TCFUA represents workers interests and is known among the workforce for its capacity to defend the interests of workers;
- The TCFUA has the capacity (in itself and through links to grassroots community organisations) to connect with outworkers and build the trust required to gain an accurate picture of what is occurring in supply chains;
- The TCFUA is a not for profit organisation;
- The TCFUA has external reporting obligations to the Fair Work Commission.

FairWear is deeply concerned that auditors paid by companies would not have the industry knowledge nor the independence to be thorough in their auditing of supply chains and monitoring of compliance.

Other auditors may not know where to find or how to find outworkers, and are unlikely to gain the trust of outworkers to speak to them openly and honestly. Outworkers would be fearful of losing their job if they did not report to company's auditor in the way the company expected them to. FairWear is aware of instances where outworkers have been directly told by their employers to lie to authorities, as well as the more common experience of outworkers being generally fearful of speaking up.

Importantly, the real and perceived independence of the auditing body of the Homeworkers Code is important for public confidence in the Homeworkers Code and the integrity of the Homeworkers Code. FairWear is both a community and a consumer campaign, and consumers have told us repeatedly over the past 17 years that they want to know who are the companies they can confidently support by buying their products, confident that those companies are working hard to ensure the workers in their supply chains are receiving their legal entitlements. Consumers who choose to buy ethically want to be confident in the auditing process which has given a company the right to be called "ethical".

Consumers, workers and businesses seeking accreditation can be confident when they know the TCFUA is the consistent, independent auditor.

The independence of an auditor who is paid by a company seeking the audit is questionable, and when this company is seeking to make a profit from the auditing process it is further compromised. There have been many, many international examples in the TCF industries of audits being carried out by auditing bodies paid for by the company which have later been proved to be ineffective at protecting workers. The most spectacular recent example is of the clothing companies in Rana Plaza building in Bangladesh where the building collapsed, killing more than a thousand workers and

injuring many others. At least two of the clothing companies in the Rana Plaza had been audited by a commercial auditing company.

By contrast, in the international arena, auditing process involving independent union auditors are recognised as the strongest systems.

FairWear has always regarded the TCFUA as the auditor of the Homeworkers Code as a central strength and pillar of the Homeworkers Code, and would have to question if we could continue to promote companies accredited under the Homeworkers Code if a system of alternative auditors paid for by companies were to be introduced.

For all these reasons, FairWear recommends the TCFUA remain the sole auditor for the Homeworkers Code of Practice.

Yours sincerely,

A handwritten signature in black ink, appearing to read "Debbie Carstens". The signature is written in a cursive style with a horizontal line underneath the name.

Debbie Carstens

FairWear National Committee