

Transport Workers' Union of Australia Queensland Branch



Address: 11 Alexandra Place, Murarrie QLD 4172
Phone: 3890 3066 • 1800 804 533 (free call outside metro area)
Fax: 3890 1105 Email: info@twuqld.asn.au

ABN: 80 519 643 130

2 October 2014

Mr Darrell Channing
Director
Adjudication Branch
Australian Competition and Consumer Commission
GPO Box 3131

CANBERRA ACT 2601

By email: adjudication@acc.gov.au

Dear Mr Channing

**Re: Application for authorisation to engage in collective bargaining
A91427**

We refer to the abovementioned application and the following submissions received by the ACCC:

- Combined Small Business Alliance WA (inc) dated 6 August 2014;
- Independent Contractors Australia dated 25 July 2014; and
- Christopher John Aylward Game dated 28 July 2014 ("the Objection Submissions").

The Objection Submissions allege that the TWU has been involved in anti-competitive behaviour to the detriment of the public good and is not a fit and proper organisation to be granted authorisation to engage in collective bargaining. In support of the allegations the objectors reference matters that have been raised in the Trade Union Royal Commission 2014.

The TWU denies these baseless allegations. The industrial arrangements and agreements between Toll and the TWU are lawful and the TWU is confident that Royal Commission will not make any findings adverse to the TWU in that regard.

The Objection Submissions have no relevance to the task to be undertaken by the ACCC. That task is to determine whether the proposed collective bargaining:

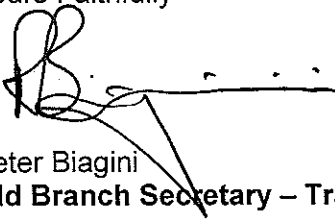
"would result, or be likely to result, in a benefit to the public and that that benefit would outweigh the detriment to the public constituted by any lessening of competition that would result, or be likely to result".

In this regard it is important to note the following:

- The Application is limited in scope to a group of owner drivers at a single company in Metropolitan Brisbane;
- The process is entirely voluntary for those owner drivers;
- The cartage rates offered by Toll Priority are standard and there is no suggestion that the offering of standard rates has substantially impacted upon competition. The negotiation of a new standard rate will not have any greater impact on competition;
- To the extent that the collective bargaining will lessen competition, it is as between the discrete group described in the Application;
- Any lessening of competition is insignificant and in any event is outweighed by the public interest considerations set out in the Application;
- The importance of fair terms and conditions for workers including contractors is clearly set out in the terms of other Commonwealth legislation including the Fair Work Act 2009 and the Road Safety Remuneration Act 2012 (RSR Act). The RSR Act establishes a regime that allows collective bargaining for owner drivers in circumstances where a Road Safety Remuneration Order is in effect. At the time of the lodgement of the Application and to date no order relating to the owner drivers or any broader group of owner drivers in the courier industry was in effect; and
- Parliament has legislated to allow collective bargaining in the circumstances permitted in the Competition and Consumer Act 2010.

The Objection Submissions do not raise any significant grounds that are not adequately answered by the material provided in the Application. The Applicant submits that the Application remains one for approval on the basis of the material supplied in the Application itself and the material outlined above.

Yours Faithfully

A handwritten signature in black ink, appearing to be 'Peter Biagini', written over a horizontal line. The signature is stylized and extends below the line.

Peter Biagini

Qld Branch Secretary – Transport Workers’ Union of Australia