



**Australian  
Competition &  
Consumer  
Commission**

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16 October 2014

Ken Phillips  
Executive Director  
Independent Contractors Australia

*By email:*

Dear Mr Phillips

**Transport Workers' Union of Australia Queensland Branch on behalf of owner drivers  
application for authorisation A91427 – ACCC determination**

Thank you for your submission concerning the application for authorisation lodged with the Australian Competition and Consumer Commission (the ACCC) by the Transport Workers' Union of Australia Queensland Branch on 5 May 2014.

As you would be aware small businesses may consider seeking authorisation from the ACCC to collectively bargain with another business where they consider that acting collectively will enable them to negotiate a more efficient outcome. Some groups will conduct the negotiations themselves, while others may appoint a representative, such as an industry association, or in some cases a union, to assist them in the bargaining process.

The ACCC has over many years authorised a broad range of small businesses to engage in collective bargaining, including dairy farmers, newsagents and hoteliers. More specifically the ACCC has authorised independent owner drivers in fields including concrete carting and milk vending to collectively bargain, some of these arrangements have provided for union assistance or participation.

The ACCC has granted authorisation allowing the Transport Workers Union to represent owner driver current and future members engaged by Toll Transport to provide air freight courier transport services at Toll Priority's Brisbane Airport Depot in collective negotiations with Toll Transport. There are currently 76 owner drivers who meet these criteria.

The ACCC has granted authorisation until 31 October 2017.

In your submission you raised concerns about evidence provided by Toll Holdings Limited (Toll Transport's parent company), concerning its arrangements and other dealings with the Transport Workers Union, at the *Royal Commission Inquiry into Trade Union Governance and Corruption*.

Having considered these matters it is the ACCC view that the matters before the Royal Commission are not relevant to its assessment of the collective bargaining arrangements put forward by the Transport Workers Union and their member owner drivers given the limited scope of these arrangements.

The authorisation granted by the ACCC does not extend to matters relating to:

- owner drivers who have elected not to participate in the collective bargaining arrangements
- any interaction with competing providers of transport services or with other drivers. In considering the matters you raised in your submission

A copy of the ACCC's determination is attached, including a summary of its reasons.

### **Application for review**

Pursuant to section 101 of the Competition and Consumer Act 2010, a person dissatisfied with this determination may apply to the Australian Competition Tribunal for its review. An application for review must be made within 21 days of the date of this determination; that is, on or before 6 November 2014. If no application to review is lodged by this date, the ACCC's determination will come into force on 7 November 2014.

An application for review of the ACCC's determination should be lodged directly with the Australian Competition Tribunal. The Australian Competition Tribunal is a separate body from the ACCC and is located within the Federal Court of Australia.

For further information about the process involved in reviewing decisions in the Australian Competition Tribunal please refer to the tribunal's website located at <http://www.competitiontribunal.gov.au/>.

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 Susan Philp on (02) 6243 1351 or me on (02) 6243 1132.

Yours sincerely



Dr Richard Chadwick  
General Manager  
Adjudication Branch