

29 January 2014

Australian Competition & Consumer Commission (ACCC)
GPO Box 520
Melbourne VIC 3001

To whom it may concern

ONCALL Language Services does not oppose the application for authorisation **A91402 made by APESMA** on behalf of its members who are translators and interpreters.

ONCALL- Overview

Our Company engages translators and interpreters (practitioners) nationally for the purposes of supplying language services to both the government and commercial sectors.

OTHER INFORMATION

Currently, this service engages practitioners as casual employees. We have previously engaged practitioners as contractors.

Effect on competition

It is our understanding that the authorisation of this application would allow Professionals Australia (APESMA) to represent translators and interpreters who are engaged as contractors in negotiations in relation to pay, conditions and other matters, as well as published standard rates and conditions.

There are many agencies that service the industry. The vast bulk of services are procured by government departments. There is very low cost to entering the industry, and a high level of competition to win the right to provide services to particular organisations.

Even if there is a tender process, many organisations, including government organisations still procure language services from:

- other agencies who have not won the tender
- directly from translators and interpreters (they do not go through an agency)
- through use of employed staff.

Even though ONCALL employs, on a casual basis, most of our translators and interpreters, most of those also supply their services through other agencies as individual contractors.

Given there are over 4500 translators and interpreters on our books, those translators and interpreters can operate for any agency or directly supply the work to an organisation, and given that any agency could set up for low-cost, it is difficult to see how this proposal could reduce competition.

It is also our understanding that this authorisation does not force our Company to come to any agreement with Professionals Australia that is not commercially viable nor does the authorisation exclude us from continuing to negotiate with individual contractors as we see fit.

The simple capacity for practitioners to engage with us collectively, if they so choose, will have negligible effects on our business or its capacity to engage freely in the market, negotiating relevant conditions for specific and individual contracts.

Currently, agencies either negotiate with individual contractors or set payment schedules depending on the contract of service with the client.

It would be this Company's preference that we do not negotiate with individuals as this is potentially time consuming, also individual negotiations rarely if ever lead to vastly different overall engagement terms. Even in the case of this Authorisation being made, it is our understanding that these changes to individuals' contracts would still be permissible.

If the outcome of negotiations were commercially damaging, we would not reach agreement.

Currently individual translators and interpreters have virtually no market power to influence or set rates of pay as individuals. The notion that they are small businesses that can negotiate rates is a complete misnomer in our experience. Translators and interpreters are price takers.

In the case of set payment schedules, it would make sense that contractors have a say in the provision of these set rates if they are going to apply broadly. It is our understanding that this authorisation would allow them to do this legally without applying specific conditions or restrictions on the agencies.

The reality is, we would not enter an agreement to pay higher rates if the procuring organisation didn't effectively increase their funding through the tender. We therefore envisage, even with collective negotiation, little capacity for the translators and interpreters to set prices. What may be able to occur is a discussion about creating a sustainable industry. **This discussion would have to involve government as well as agencies and translators and interpreters.**

Likely public benefits

Language services are critical for;

- 1) The CALD community members that require language assistance in order to fully participate in the community, economy or to access Government services

- 2) The supplier of government services to ensure cost effective and risk free delivery to the community
- 3) Facilitating commerce in a global economy
- 4) Ensuring Australia is a competitive and capable venue for international events and conferences.

It is our experience, having provided thousands of language services, that professionalism among translators and interpreters is essential for our business and essential to the community. Services provided in areas such as hospitals and courts, if not provided professionally can have a significant impact on individuals and systems.

Barriers exist to ensuring that these critical services are delivered effectively and efficiently. Some of these barriers are;

- 1) The ability to attract and retain an appropriately skilled workforce
- 2) The ability (or market incentive) to the delivery of continued professional development and training
- 3) Sub-optimum utilisation of the workforce
- 4) The fragmentation, disorganisation and pseudo-professionalism of the workforce.

It is the view of ONCALL that all industry stakeholders (government, community, companies and APESMA) should work together to ensure that a sustainable industry can prevail.

In making this authorisation, practitioners will be able to fully participate in this process. The language services industry is currently experiencing a situation where it is hard for agencies to compete financially with other sectors to recruit a skilled workforce. This issue is one faced across the industry. A situation where translators and interpreters were collectively represented could mean that the conditions across the industry become more attractive for a skilled individual looking to enter the workforce and in the long term ensure a higher quality of service delivery for the community.

For example, in Victoria, another agency has just won a tender, replacing ONCALL, soon after they reduced their rates from \$67 to \$55, with a minimum one hour, and no travel payment within an 80 km zone. If the interpreter is travelling for around two hours, say to and from Geelong, to do a one-hour job for \$55, they are being paid less than \$20 per hour and have to pay their own vehicle, professional indemnity insurance and telephone costs. This effectively means they are paid less than minimum wage.

It will be impossible to attract and retain professionals with these rates. Talented people will not choose to be educated and become accredited. Agencies will be forced to undercut each other to survive and win tenders.

ONCALL believes that if practitioners were able to make a reasonable salary working full time equivalent hours by way of negotiation across the board this may encourage the industry to resolve some of the barriers. There is significant potential efficiencies and offsets from any

increased expenditure. We are confident that with the right arrangement reached, the industry could operate more efficiently, and with greater professionalism, significant savings could be achieved for the community.

There is evidence that highly skilled professional translators and interpreters can reduce waste and achieve efficiencies through facilitating efficient operation of systems which rely on communication. For example there is evidence that time spent in hospitals by people whose English is not proficient, reduces with the use of professional interpreting services. We are aware of huge waste being created by for example court mistrials, where professional interpreters have not been utilised.

Currently there is difficulty in driving solutions to barriers because of the lack of effective representation of practitioners on an industry scale.

In allowing collective negotiations there exists value for both the workforce but also for the users and deliverers of the services in terms of improved quality, derived in the first instance by improved workforce retention and potentially improved further through an accelerated pathway towards a properly professionalised workforce.

For example, a classification structure which provided an incentive for practitioners to become NAATI accredited and undertake professional development, would improve the industry. Implementing this as part of an employer /employee relationship with its interpreters and translators and trying to maintain a profitable business while all its competitors are not adhering to competitive neutrality policies presents unfair competition and lack of level playing field and an impossible task.

If this proposal aids in improving professionalism in the industry, it should be supported.

For the above reasons we do not oppose the application.

Yours sincerely



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