



Australian Government

Department of Immigration and Border Protection

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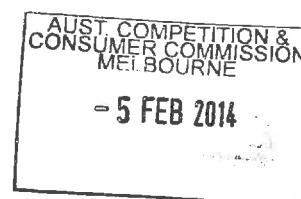
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Dr Richard Chadwick
General Manager
Adjudication Branch
Australian Competition and Consumer Commission

GPO Box 520
Melbourne VIC 3000

Our reference: D14586



Dear Dr Chadwick

Comments by the Department of Immigration and Border Protection in relation to the application for authorisation (A91402) by the Association of Professional Engineers, Scientists and Managers Australia ("APESMA")

Thank you for your letter of 8 January 2014, which gives the Department the opportunity to make a submission on the likely public benefits and effect on competition, or any other public detriment, from the arrangements proposed by APESMA.

The Department welcomes the opportunity for the interpreters and translators to improve the quality of their services and the opportunity to ensure they are offered safe working environments. The Department also welcomes ways to ensure that the interpreters and translators strictly comply with the Code of Ethics of the Australian Institute of Interpreters and Translators.

The Department has enclosed its detailed comments in response to APESMA's proposal at Attachment A for your consideration.

While in particular, APESMA's application proposes to create these opportunities, the Department considers that an increase in pay rates may put financial pressure on the Department at a time when the Australian Government is under significant budgetary pressure to reduce expenditure. The Department considers that any increased pay rates may necessarily result in the reduction of interpreting or translating jobs being available to interpreters or translators. This may reduce the interpreting or translating service delivery that the Department can provide to the community on a fee free basis, as well as reducing the fee paying interpreting or translating services required by business. Ultimately, this may cause difficulty in communication between non-English-speakers and English-speakers in the delivery of public and private services.

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Once again, thank you for the opportunity to comment on the arrangements proposed by APESMA.

Yours sincerely



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Director
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ATTACHMENT A

The Department makes the following comments on the likely public benefits and effect on competition, and other public detriment, from the arrangements proposed by APESMA.

1. Public Benefits

a. Improvement in quality of interpretation and translation services

The Department welcomes an improvement in the quality of services and resultant increased professionalism in the industry.

b. Assurance of safe working environments

The Department agrees that it would be beneficial to the interpretation and translation industry to receive assurance regarding occupational health and safety.

c. Compliance with the Code of Ethics of the Australian Institute of Interpreters and Translators

The Department agrees that it would be beneficial to improve the integrity and veracity of interpreters and translators. The Department also recognises that there is merit in having a body that is directly responsible for the professional conduct of its members and is responsive to claims of unprofessional conduct.

2. Effect on Competition

a. Limitation on availability of competitors to TIS National

Although the Department may be required to absorb additional costs of the anticipated improvement in pay and conditions, the Department's competitor organisations, such as Oncall Operations Pty Ltd and Victorian Interpreting and Translating Service, may not be required, or may not be able, to do the same. Therefore, the increase in cost may provide TIS National with an unfair competitive advantage if only TIS National were able to absorb these additional costs.

b. Reduction in the Department's opportunity to undertake procurement to ensure that it achieves value for money in accordance with its responsibility under federal financial management legislation

Under the federal financial management legislation, the Commonwealth is required to achieve value for money in the procurement of goods and services. To ensure that the Department obtains value for money from its contract with interpreters and translators, the Department considers various factors, such as experience and qualification of interpreters and translators, in addition to price in determining value for money.

A collective bargaining determination will reduce the capacity of the Department to undertake such value for money procurement in its delivery of services to the community.

c. Risk of extent of effect on competition given that the common terms in the proposed contracts have not been reduced to writing

There is no indication of the extent of the provisions, such as remuneration, training, job cancellations and security, which APESMA will seek to collectively bargain on behalf of its members.

It would be difficult for agencies, which utilise interpreters and translators, to determine the precise risk of a collective bargaining determination without the proposed common term contracts being determined and reduced to writing.

3. Other Public Detriment

a. Deviation from Commonwealth policies and adopted provisions

There is a risk to the Department that the common terms which will be adopted by APESMA, either at this stage or at a subsequent time, may not incorporate the standard provisions in government contracts which reflect Commonwealth policies (such as the Commonwealth's position on indemnities in Commonwealth contracting and the Commonwealth's intellectual property policy).

b. Reduction of interpretation and translation jobs available to interpreters and translators

Currently, the Deed entered into between the Department (on behalf of TIS National) and each individual interpreter or translator being the service provider is a standard agreement. If service providers collectively negotiate terms of engagement, this could mean that there may be increased costs for using interpreting and translating services to the Department.

These additional costs would require additional funding to enable the Department to provide the same level of services (whether fee-free-services or, fee-for-services without a corresponding additional increase in service charges). Without any additional funding from the Commonwealth, which is unlikely given the current environment of significant government budgetary pressure to reduce expenditure, the level of services and therefore the number of jobs available to interpreters and translators are likely to decrease.

c. Reduction of interpretation services available to the community on a fee-free basis

TIS National provides free interpreting services to non-English-speakers communicating with approved groups and individuals on behalf of the Department of Social Services (including medical practitioners, non-government organisations, trade unions and government authorities). Currently, the TIS National immediate telephone interpreting service is available 24 hours a day, every day of the year for the cost of a local call for any person or organisation in Australia who needs an interpreter.

There is a risk that this level of service will not be available following a collective bargaining process given the significant increase in costs that may result to the Department in utilising the services of the interpreters and translators.

d. Reduction of usage of the fee-for-interpretation services utilised by business

TIS National provides interpreting services to the public on a fee-for-service basis, including both telephone interpreting and on-site interpreting. The Department may need to pass directly to the end users the additional costs it would incur to engage the interpreters and translators. This may restrict members of the Australian public's access to Australia's culturally and linguistically diverse community.

e. Difficulty in communication between non-English speakers and English speakers in the delivery of public and private services

The Department considers that it would be possible for improvement in the quality of interpretation and translation services to be implemented without the need for an organisation such as APESMA to lobby on the service providers' behalf. As an example, the Department has already started to implement incentive payments (starting in 2013) in an effort to improve conditions for interpreters and translators generally.

The method of improvement to the industry advocated by APESMA puts the current availability of interpretation and translation services at risk. A reduction in the availability of services provided by TIS National and other agencies would ultimately

place difficulty in the communication between non-English-speakers and English-speakers in the delivery of public and private services.