

22 September 2015

Commissioner Jill Walker
Australian Competition and Consumer Commission
GPO Box 520
Melbourne Vic 3001

Your ref: 57224
Contact officer: John Rouw
Contact phone: (03) 9290 1402

Dear Commissioner Walker,

Re: Job Futures Ltd re-authorisation applications A91493 and A91494 – pre-decision conference

Firstly I would like to thank you for the hearing held in Perth on Friday 11 September. It was very well conducted and gave Bridging the Gap every opportunity to put all its views to the Commission on the day. Nevertheless, I thought I would take up the opportunity to provide brief additional information that did not seem to go with the flow of the conversation on the day and also to restate a principle that perhaps I incorrectly put on the day.

In terms of additional information, I would mention that four of the submissions in support of the Application lodged with the Commission before your draft Authorisation was issued were letters submitted by organisations that were represented on the Board of Job Futures, namely submissions by:

- Busy at Work – Paul Miles, Director Job Futures,
- Australian Community Support Organisation – Vaughan Winther, Director Job Futures
- Access Community Group – Larissa Daniel, Director Job Futures
- The Community Solutions Group – David Curd, Director Job Futures

It is hardly surprising that these organisations supported their Job Futures Board Members' decisions.

Two of the organisations that originally supported the application, later provided submissions that reversed their support for the application, namely:

- Australian Community Support Organisation
- Jobs Australia Limited.

Job Futures' explanation of the late posting of the "Conflict of Interest" notice to members on the Job Futures website does not appear to pass the "reasonable time" test. The decision by Job Futures to tender as a subcontractor to Busy at Work was made in early to mid-October 2014. The notification that Paul Miles was, at the same time, a Director of Job Futures, Chair of Job Futures Finance and Strategy Committee and the CEO of Busy at Work was not posted until 31 July 2015 nearly ten months later.

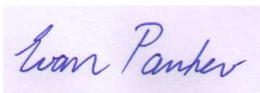
It was explained at the hearing that one cannot “breach” an ACCC Authorisation. I accept that I am not trained in these matters and may be confused however, if an authorisation says on Page 39 “Job Futures will not tender against members” and at 6.119 “The non-compete arrangements also restrict competition by Job Futures with members in tendering for new business” and then Job Futures does tender against members for new business, it seems there must be some consequences, whatever the terminology. Alternatively, if there are no consequences for doing the opposite of what the authorisation says then it is logical to ask “why have an authorisation”?

Even during the hearing, Job Futures’ CEO made an extensive explanation of how they are deciding whether, in the next tender due to be released this month, they will or won’t tender with or against members. It seems little has been learned and that your Authorisation is destined to continue to be ignored. To me this betrays an attitude on Job Futures behalf which means that Job Futures can’t be trusted to exercise its extraordinary privileges responsibly.

Finally, I would just reiterate that we have no confidence that delaying a decision for several months will change Job Futures’ behaviour and we do not favour an extension based solely on the Members working it out themselves. It has been very difficult for Bridging the Gap and Balga Job Link to get Job Futures to address these issues and we believe they would not have done so were it not for the emergence of the ACCC hearing. In the eleven or so days since the hearing, there has been no contact from Job Futures to Bridging the Gap to work through the issues raised at the hearing and we hold no great hopes of this happening in the near future. In short, we believe some enforcement from the ACCC is required.

We are confident that the Annual General Meeting of Members will not agree to the changes proposing to allow Job Futures to compete with its own Members. This however, does nothing to redress the actions that Job Futures has already taken which we argue are in contravention to the authorisation and it does nothing to dissuade them from taking similar actions in the coming weeks if they tender again. We would like a finding against Job Futures past actions so as to assist us remedy the current and future damage to our business with the Commonwealth and its agencies.

Yours sincerely,



Evan Parker
Chairman

