



8<sup>th</sup> December 2015

Australian Competition & Consumer Commission  
Ms Lyn Camilleri  
Director  
Adjudication

By Email: adjudication@acc.gov.au

Your Ref: 5875

Dear Ms Camilleri

**Recruitment & Consulting Services Association Limited notification N98703 - interested party consultation**

Further to your correspondence of 24<sup>th</sup> November and subsequent questions, the following comments are provided in relation to Recruitment & Consulting Services Association Limited notification N98703.

**General remarks**

In making these comments we have not had any opportunity to compare the SDS with ISO 9001. As identified below we believe that a comparison between the two is relevant to understanding the characteristics of the scheme and its competency conditions for auditors. These are relevant to establishing the strength of the case for limiting the audit pool as proposed in the notification.

JAS-ANZ has not held any discussions with RCSA regarding their proposal and the comments here based only on the information provided in your request for comment and from the ACCC Public Register. The majority of the points raised arise from matters which we would expect to be dealt with in the SDS.

We advise that Certex International and Sustainable Certification (identified in Annex A) are both known to JAS-ANZ and are accredited by JAS-ANZ for several management systems standards. JAS-ANZ has no dealings with or knowledge of PAJE Business Solutions (identified in Annex A).

Furthermore, JAS-ANZ does recognise, and is referenced in, some schemes that limit the use of audit services to a restricted pool of auditors or single audit agency and has no fundamental objection to these schemes where they satisfy conditions for authorisation by relevant authorities.

**RCSA Submission**

Our understanding of the RCSA submission is that the RCSA administers a service delivery standard to provide its members with a framework for 'consistent delivery of high quality recruitment



and/or labour hire services' and that RCSA members will seek certification against the SDS. Other salient points are that:

1. RCSA will approve persons who have demonstrated competence to provide SDS audit services to provide audit services
2. RCSA members will acquire audit services only from the panel of SDS approved audit services -
3. At present there is only one approved auditor
4. SDS certified members wishing to integrate their SDS program into a certified ISO 9001 program or similar, must
  - a. Have submitted their SDS program to an initial assessment completed by an SDS auditor
  - b. Be certified by a JAS-ANZ approved certification body, and certification must remain current

Our understanding is that the intent of the consultation is to seek comments relevant to the condition that RCSA members use an SDS auditor approved by the RCSA, as distinct from the more general option of RCSA members having the freedom to choose which auditor to assess their SDS compliance.

### **Capacity to Comment**

The capacity to comment on this proposal is hampered by the non-availability of the SDS. This document seems essential to understanding what it is that the RCSA is attempting to achieve through the scheme, particularly whether the emphasis is on (1) compliance, or (2) service quality and improvement or (3) some combination of both.

Broadly speaking, compliance can be taken to be a prescriptive set of conditions unique to the industry or its clients and which require highly specialised knowledge as a precondition for forming any view about conformity. A service quality/improvement approach can be taken as a more general set of conditions aimed at establishing the basis for managing and improving service delivery.

A strong focus on compliance might tend to argue in favour of exclusive dealing and restricting the audit to SDS Approved auditors, whereas an SDS that tended to service quality and improvement might provide a much weaker case for exclusive dealing. The latter might be adequately delivered by a wider pool of auditors such as those experienced in ISO 9001 and informed by some industry guidelines or code.

Without the opportunity to make any form of comparison between the two documents we can only make the following observations:



## Comments

1. The RCSA appears to be proposing to supervise the conduct of audits on behalf of its members who are the providers of these services. This is arguably a 1st party audit. The proposed audit framework could not be classified as 2nd party, that is representing the interests of the users of these services, or 3rd party, that is conducted by persons independent of the services being provided. Arguably, 1<sup>st</sup> party audits are heavily discounted by stakeholders compared to 2<sup>nd</sup> or 3<sup>rd</sup> party audits, and this could be expected to have some impact on the calculation of benefits to members.
2. The approach taken to 'commercial sensitivity' of the SDS seems at odds with (1) the range of protections that can be applied to such material (2) the logic of the SDS as a service improvement tool and (3) the marketing value claimed for the SDS. If the SDS is not available how will service users know that the SDS does in fact adequately describe systems aimed at high standards of service?

Understanding the relationship between ISO 9001 and the SDS is important for testing the claim that the development of the SDS is 'a competitive and cost effective alternative' to certification to ISO 9001. The notification also tries to position the SDS as an alternative to ISO 9001 and at the same time highlights that it is a first step towards ISO 9001. This suggests the conditions imposed by the SDS might be somewhat less than ISO 9001. If that is the case then it arguably provides a relatively weak case for limiting the auditor pool.

3. We have not been able to discover any details of a public consultation process for the SDS (in contrast to ESIC) extending to affected parties or details of the process under which the SDS has been developed that would support the case for exclusive dealing. That may simply be our failure to locate the relevant work, but some form of public consultation or a development process for the SDS comparable to the public standards process would seem essential to support a project built around limiting service procurement and choice.
4. There are no details about the competency criteria applied to the selection of SDS auditors and how these are different from criteria that would be applied to ISO 9001 auditors working within the recruitment and employment services sector. It would generally be expected that the differences in the competency criteria would be persuasive in supporting the case for exclusive dealing.
5. The proposed arrangement outlined in the Notification of Exclusive (F.) dealing advises:



*SDS Certified members wishing to integrate their SDS program into a certified ISO 9001 program or similar must:*

- *Have submitted their SDS program to an initial assessment completed by an RCSA Approved Auditor to verify compliance with the requirements of the SDS standard; and*
- *Be certified by a JAS-ANZ approved certification body, and certification must remain current*

On the last point we have not had any discussions with RCSA to consider what it might mean in terms of how this would work and planning for any demand. At present there are several accredited certifiers operating with a classification scope that would cover employment and recruitment services and up to 200 organisations certified within the sector. However for the proposed arrangement to work we anticipate that any ISO 9001 certification would need to be guided by some knowledge of the SDS.

6. Although there is a claim that the SDS has been developed in response to problems (cost and lack of specificity) with ISO 9001, the Notification of Exclusive Dealing also states that service providers that have an integrated ISO 9001/SDS system would lose their status if they lost their ISO 9001 systems certification. This seems a logically incoherent position when ISO 9001 certification is not a pre-requisite for all service providers. It also appears to work as a disincentive towards the benefit claim cited in the Notification that the SDS as a first step towards ISO 9001.

Overall the aims and object of the RCSA, as stated in the Notification, are likely to have a broad range of public support. The initiative taken by the RCSA is a good example of how certification can be used to advance economic and social agendas. The absence of key elements of the scheme documentation means that it is not evident that the scheme or that the competencies of auditors are so specialist as to be only able to be delivered through a limited pool of auditors.

Yours sincerely

James Galloway

Joint Accreditation System  
of Australia and New Zealand