



**Australian
Competition &
Consumer
Commission**

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13 January 2016

Dear Sir/Madam

**Recruitment & Consulting Services Association Limited notification N98703
– no further action**

I refer to the above third line forcing notification lodged with the Australian Competition and Consumer Commission (the ACCC) on 19 November 2015. The ACCC does not intend to take further action in this matter at this time.

Notified conduct

The Recruitment & Consulting Services Association Limited (RCSA) submits that it administers a Service Delivery Standard (SDS) to provide its members with a framework for consistent delivery of high quality recruitment and/or labour hire services. Members will seek certification against the SDS.

The RCSA will approve persons, who have demonstrated their competence and who are and remain otherwise suitable to provide SDS audit services to members, for appointment to a panel of SDS approved auditors from which members may select appointees to conduct audits against the SDS.

RCSA members will acquire SDS audit services only from the panel of SDS approved auditors. At present there is only one approved auditor.

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
- be certified by a JASANZ approved certification body, and certification must remain current.

Suspension, cancellation or termination of the ISO 9001 or similar certification will result in cancellation of the RCSA SDS certification.

A full copy of the exclusive dealing notification is available on the ACCC's website <www.accc.gov.au/PublicRegister>.

Submissions

The ACCC consulted with industry associations, recruitment and consulting agencies, prospective auditors and government bodies in relation to the notification.

A submission was received from the Joint Accreditation System of Australia and New Zealand (JASANZ).

JASANZ submits that it is not clear that specialist auditors are necessary and has concerns about the RCSA preventing other qualified auditors from conducting SDS audits. JASANZ is also concerned that there are no details about the competency criteria applied to SDS auditors or the independence of the audits.

In response, the RCSA submits that it expects that auditors will have completed an industry recognised auditor training program, and have suitable experience in HR, recruitment or the labour hire industry, before it will appoint auditors to audit SDS compliance. The RCSA also requires auditors to participate in a training/induction before it will approve them as an SDS auditor to ensure they understand the industry, the basis of the SDS and to familiarise auditors with the RCSA Code for Professional Conduct.

While there is currently only one approved auditor, the RCSA submits that the intent was to open up auditing to a range of auditors and reduce the audit costs to members by sourcing auditors in each capital city and large regional centres. The RCSA has not set any limit as to the number of approved auditors.

Assessment

The ACCC notes that the proposed conduct will restrict RCSA members as to the auditors they can use to assess their SDS compliance.

However the ACCC considers that the approval of SDS auditors will facilitate a consistent and reliable approach to audit for SDS accreditation purposes.

The ACCC notes that the RCSA intends to have five approved SDS auditors within the first year and that there is no set limit as to the number of approved auditors. Any suitable auditor can apply to complete the induction/training and become an approved SDS auditor. Further, the SDS is not a mandatory requirement for participation in the industry or for membership of the RCSA. The ACCC accepts that there are a number of suppliers in the recruitment and human resources services market and there are alternative certification bodies and auditors who work with other relevant standards.

Decision

Legal protection conferred by the notification commenced on 3 December 2015.

On balance, having regard to the claims by the applicant and the issues raised by interested parties, the ACCC is not satisfied that the likely benefit to the public from the notified conduct will not outweigh the likely detriment to the public.

Accordingly, the ACCC does not intend to take any further action in this matter at this time.

As with any notification, the ACCC may act to remove the immunity afforded by this notification at a later stage if it is satisfied that the likely benefit to the public from the conduct will not outweigh the likely detriment to the public from the conduct.

This assessment has been made on the basis that RCSA will disclose all relevant terms and conditions to its members and the auditors.

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 Tess Macrae on (03) 9290 1835 or adjudication@acc.gov.au.

Yours sincerely

A handwritten signature in grey ink, appearing to read 'B Mullen', written in a cursive style.

Baethan Mullen
Acting General Manager
Adjudication