



**Australian
Competition &
Consumer
Commission**

Our Ref: 62447
Contact Officer: Fei Wu
Contact Phone: (03) 9290 1987

GPO Box 3131
Canberra ACT 2601
23 Marcus Clarke Street
Canberra ACT 2601
tel: (02) 6243 1111
fax: (02) 6243 1199
www.accc.gov.au

19 July 2015

Sent via email

Dear Sir/Madam

Transport Workers Union of Australia SA/NT Branch – collective bargaining application for authorisation A91589 (Whyalla) – interested party consultation

The Australian Competition and Consumer Commission (the **ACCC**) has received a collective bargaining application for authorisation from the Transport Workers Union of Australia SA/NT Branch (the **TWU**).

The ACCC invites you to comment on the application and the request for interim authorisation. Please see the ACCC's online publication [Authorisation process - the basics](#) for a summary of the authorisation process and how to make a submission to the ACCC.

The application for authorisation

The TWU seeks authorisation for its owner driver members who are contracted to Toll Transport Pty Ltd (**Toll**) to collectively bargain with Toll, with assistance from TWU, to establish new contracts for the supply of freight courier transport services in Whyalla, South Australia. In particular, TWU seeks to collectively negotiate the terms and conditions of a proposed '2017 Toll Whyalla Agreement', including (but not limited to) carriage rates, annual rate increases, penalty rates for services provided outside standard work hours and dispute resolution procedures.

Participation in the collective bargaining group is voluntary, and TWU will invite all owner drivers contracted by Toll to join the group. TWU seeks authorisation for 5 years.

A full copy of the application for authorisation is available on the ACCC's [Authorisations Register](#). A copy of TWU's application and supplementary submission in support of its request for interim authorisation is also enclosed with this letter.

Interim authorisation

TWU has requested interim authorisation to commence collective bargaining as soon as possible while the merits of the substantive application are assessed. If the ACCC were to grant interim authorisation, the TWU advises that it would not finalise bargaining until the ACCC made its final determination.

The ACCC endeavours to deal with requests for interim authorisation quickly. In making an assessment as to whether it is appropriate to grant interim authorisation, the ACCC is not required to undertake a full assessment of the benefit and detriment likely to arise as a result of the proposed conduct.

Request for submissions

The ACCC invites you to comment on the substantive application for authorisation and TWU's request for interim authorisation. Please see specific questions below.

Submissions should be emailed to adjudication@acc.gov.au with the subject 'A91589 – TWU/Toll (Whyalla) – submission'.

Submissions on request for interim authorisation

The ACCC decides whether to grant interim authorisation on a case by case basis. The ACCC will usually consider a range of factors, including:

- harm to the TWU, Toll or any other parties if interim authorisation is or is not granted
- possible benefit and detriment to the public
- the urgency of the matter
- whether the market would be able to return to substantially its pre-interim state if the ACCC should later deny authorisation.

If you wish to provide a submission about TWU's request for interim authorisation, having regard to the above factors, please do so by **Wednesday 26 July 2017**.

Alternatively, if you would like to provide comments orally, please contact Fei Wu on (03) 9290 1987 to organise a suitable time.

Submissions on substantive application

The ACCC invites you to make a submission on the likely public benefits and effect on competition, or any other public detriment, that may arise from the proposed conduct. You are also free to comment on any other issue you consider relevant to the ACCC's assessment.

In particular, the ACCC would appreciate your views on the following issues:

- how the contract negotiations are likely to progress in the likely future without the conduct (that is, any alternatives to collective bargaining)
- whether the proposed collective bargaining is likely to result in public benefits such as:
 - addressing a bargaining power imbalance between Toll and the owner drivers in contract negotiations
 - transaction-cost savings
 - maintenance of written contract terms, and
 - maintenance of minimum standards
- whether the proposed collective bargaining is likely to lessen competition between owner drivers in their supply of freight transport services to Toll, and
- whether and how the proposed collective bargaining would affect, exclude or advantage the owner drivers or Toll.

If you wish to make a submission in relation to the substantive application, please do so by **Wednesday 9 August 2017**.

Submissions, including oral submissions, will be placed on the ACCC's public register subject to any request for exclusion. Please see the ACCC's publication [Guidelines for excluding information from the public register](#).

Please advise if you do not wish to make a submission at this time, but would like to be informed of the progress of the applications. You can also forward this letter to any other party who may wish to make a submission to the ACCC regarding the applications.

Timetable

The ACCC will progress its assessment of the application in a timely manner. An indicative timetable is set out below for your information:

Indicative date	Stage in assessment process
27 June 2017	Application lodged, including a request for interim authorisation
14 July 2017	Applicant provides supplementary submission in support of interim authorisation request.
19 July 2017	Public consultation begins.
26 July 2017	Closing date for submissions on request for interim authorisation.
August 2017	ACCC decision on interim authorisation.
9 August 2017	Closing date for submissions on substantive application for authorisation.
September 2017	ACCC draft determination.
September/October 2017	Public consultation on draft determination including any conference if called.
October/November 2017	ACCC final determination.

This letter has been placed on the ACCC's public register. If you wish to discuss any aspect of this matter, please contact Fei Wu on (03) 9290 1987 or adjudication@acc.gov.au.

Yours sincerely



Jaime Martin
A/g Director
Adjudication

**List of Interested Parties – Transport Workers Union of Australia SA/NT
– Application for Authorisation A91589 (Whyalla)**

Affected members of Transport Workers Union

Toll Transport Pty Ltd

DHL Express

Fedex Australia

UPS

Startrack

The Treasury

Small Business Commissioner of South Australia

Freight and Trade Alliance

South Australian Road Transport Association

Independent Contractors Association (or Self Employed Australia)