

Senate Economics Legislation Committee

ANSWERS TO QUESTIONS ON NOTICE

Treasury Portfolio

Budget Estimates 29, 30 & 31 May 2007

Question: bet 3 (ACCC)

Topic: Collective Bargaining - Waiving of Fees

Hansard Page: Written

Senator JOYCE asked:

1. Can the fee for an authorisation application for collective bargaining by small business be waived? Has it has been waived recently? If so, in what circumstances can it be waived? Will the ACCC issue a guideline or advice setting out when the authorisation fee will be waived?
2. Can the fee for the new collective bargaining notification be waived?
3. How many collective bargaining notifications have been lodged so far?
4. Have you been briefed on proposed section 46 changes?

Answer:

1. (a) Yes. Pursuant to section 172 (2A) of the *Trade Practices Act 1974* and regulation 75 of the *Trade Practices Regulations 1974*, from 1 January 2007 the ACCC has discretion to waive, in full or in part, fees that would ordinarily apply to an authorisation application, including applications involving collective bargaining.

(b) Yes. The ACCC advises potential authorisation applicants to make requests for the waiving of fees in writing, prior to lodging an application. Should the ACCC agree, its response remains current for three months. Since 1 January 2007, the ACCC has received five requests to waive or reduce fees associated with prospective small business collective bargaining arrangements. Of these, the ACCC has agreed to waive the fee in full in relation to three and has agreed to waive the fee in part for two.

Of the requests received, two authorisation applications have subsequently been lodged - from the Victorian Potato Growers Council (23 April 2007) and the South East Potato Growers Association (9 July 2007). In both matters the ACCC agreed to waive fees in full. The remaining three ACCC responses remain current but have not to date (27 August 2007) led to lodged authorisation applications.

(c) Regulation 75 of the *Trade Practices Regulations 1974* provides for the ACCC to waive, in whole or in part, the fee that would be otherwise applicable to

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an authorisation application if the ACCC “is satisfied that imposition of the entire fee would impose an unduly onerous burden on an applicant.”

(d) In January 2007, the ACCC issued a guide outlining recent amendments to the Act, including references to the factors that the ACCC will take into account when considering a request for waiver of the authorisation fee. The guide, together with a specific page dealing with authorisation fee waivers, was made available on the ACCC website (www.accc.gov.au) from 2 January 2007. The factors identified in both include:

- § whether the payment of the fee will cause the applicant financial hardship considering the income, liabilities and assets of the applicant
- § whether the applicant is a not-for-profit organisation
- § if the application is lodged on behalf of a number of parties, whether the individual parties are able to contribute towards the application fee and
- § whether the applicant intends to lodge a number of applications.

Draft versions of the guide were released in November 2006 for public comment. Copies were sent directly to a broad range of interested parties including relevant industry and professional organisations. The draft was identified in the ACCC’s media release of 15 November 2006 (MR 269/06) inviting comment.

A further media release of 2 January 2007 (MR 001/07) announced the release of the finalised guide and made specific reference to the fee waiver amendments.

2. No. The Act does not provide for the ACCC to waive fees applicable to the lodgement of collective bargaining notifications.
3. As at 27 August 2007, the ACCC has received notifications in respect of collective bargaining arrangements from the Australian Newsagents' Federation Limited and also from a group of Queensland citrus fruit growers.