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12th June 12, 2013

Dr Dermody

Committee Secretary

Standing Committee on Foreign Affairs, Defence and Trade

PO Box 6100

Parliament House

CANBERRA ACT 2600

BY EMAIL

Dear Dr Dermody

Inquiry into the Export Market Development Grants (EMDG) Amendment Bill 2013 – Additional Submission.

I write in follow up to the 7th June hearing of the Standing Committee in relation to the proposed bill above.

I thank the Senate members for the opportunity to be part of the discussion on the future of the EMDG program. I thank you and your staff for all your help on the day as well.

EMDG does work well and has made a real difference to Australia's export performance in the past and at this time. It should be allowed to do so in the future as well.

The EMDG program has recently been reduced by \$25M per annum for budget alignment purposes.

That reduction is not part of the 2013 EMDG Amendment Bill that is before the committee at this time.

The bill to be considered contains a number of matters that deal with how the reduction is to be managed and administration changes for the benefit of Austrade as the administration agent for the scheme.

The proposed changes before the committee have no budget impact as the funding is capped at \$125M per annum.

Overall, exporters, the end users of the scheme, will be in a worse position than if the changes did not happen.

As this is the case and there is no impact on the overall budgeting of the scheme as stated above there is no point in making the majority of the changes.

The number of exporters accessing the scheme will drop as will the average grant which has a multiplier effect on the level of export sales that would not otherwise happen without it.

The level of complexity will increase with an increased compliance cost to be borne both by the exporter and Austrade in administering the scheme.

For Australia the level of exports generated by the scheme will reduce with resultant flow to economic activity, taxable income and employment.

Our group, the Export Consultants Group (ECG) support therefore the statement of Mr. Clarke of ACCI one of our fellow panel members at the initial hearing.

Mr. Clarke stated

“ ... to start quarantining it (EMDG) or providing some sort of discrimination, as is suggested through this legislation, is we think, a false approach to dealing with support for export markets... Ultimately, our view is that this piece of legislation is unnecessary....Our preference would be that this legislation not progressbecause tinkering at the edges with these constant changes to the scheme as it is going along simply undermines the confidence for exporters”

Mr. Murray from the Export Council of Australia another panel member present on the day supported the above views as well.

We think that the proposed changes have not been properly discussed and more time is needed for the issues to be worked through jointly with Austrade. We welcome that happening as part of an overall review of the program that is already scheduled to happen before 2015.

We also note from the presentation given by Mr. Vickers from Austrade that the data used to indicate the likely impact on the scheme as per Mr. Thompson’s submission is out of date.

Mr. Vickers stated that the data used was based on the 2011 grant applications (for the expenditure and turnover for the year ended June 2011) paid in the year ended June 2012.

There is more current information that can be used, that is data based on the grants submitted for the year ended June 2012 which most if not all have now been processed by Austrade.

We were to provide to the committee a listing of members who have undertaken to be part of our joint industry compliance program with Austrade administered under the Code of Practice Administration Committee (COPAC) framework. They are now attached.

The rules that such a member signing up to the program needs to follow and abide by are attached.

Austrade needs to be provided with this report so they can produce a report giving the total number of claims lodged by such consultants/divided by the total of consultants. This will produce a higher figure than the 23% which is done on number of consultants (not applications lodged) over the total of consultants. A lot of listed consultants only lodge one or two applications. We estimated that COPAC consultants lodge 80 to 90% of consultant lodged applications.

We think that the current system has worked well but of course we welcome continuous dialogue with Austrade to make things even better.

We do accept in principal that Fit and Proper provisions need to be implemented under the Act, but we do not think that the current proposal is well thought out and ready to be implemented.

We are concerned that the associated Ministerial Determination to accompany such legislation has not yet been written. Austrade may apply such a finding on grounds that our members are not informed on, the catch all phrase "anything that Austrade may consider" is simply too broad and we strongly believe open to abuse.

Austrade has had experience it terms of applying such provisions to clients of the scheme but no experience whatsoever in applying the rules to consultants.

Past experience where Austrade has applied "fit and proper" to our clients tells us that issues takes months if not years to work through. We are concerned with the practice of this section and believe there are not sufficient internal checks and balances to ensure that the extra effort to increase the probity of the scheme that Austrade requires actually happens.

Mr. Vickers indicated that the cost to independently administer the fit and proper provisions would be excessive due to the small number of consultants. This reason cannot and should not be used to justify a system that is administered solely by Austrade. Cost saving is not the issue here; it is getting things right in the first place and ensuring that natural justice prevails.

We take this opportunity to respond to Mr. Thomson's submission as Parliamentary Secretary responsible for EMDG and some other issues arising from matters discussed at the hearing.

All Exporters will be affected by the Changes.

Mr. Kelvin Thomson letter of 31st May third to last paragraph

“The overwhelming majority of EMDG applicants will not be affected by the legislation”

This is not correct. All exporters will be impacted by the changes and we believe most will be worse off.

Most exporters will have their grant entitlement reduced by 2 years. Those going to Asia have been increased by 1 year. Therefore the majority of exporters entering the scheme and those part way through it will have their grant entitlements reduced by 2 years.

In addition the removal of the Joint Venture provisions of the program has not been listed by Austrade. This would reduce the claimed level of increase from the bill which at 2.7% is very marginal in the first instance.

The removal of the Joint Venture provisions is only being done for administrative expediency. It does not appear any work was done to look at the loss of overall export impact from the removal of such provision and the impact of the regional areas where most of the Joint Venture applications are based.

Splitting the Globe into two – more complexity – Apportionment is not as simple as it sounds.

The division into the two areas will increase the complexity of the scheme in terms of apportionment issues; to allocate claimed expenditure between the markets that are in and those that are out.

Those that are out past year 5 are North America, and the EU.

Those that are in are the rest of the world excluding NZ, North Korea and Iran. The alignment to Asia does not actually exist.

The new markets will not replace the export sales lost in the now excluded markets.

With all due respect to Mr. Vickers presentation, Austrade can only speak in a theoretical sense not a practical sense like we do in terms of the impact of the scheme.

They do not prepare and submit EMDG applications, they have never done so.

We know things will not be easy as it is made out to be.

Apportionment is relatively simple when this is done just on a country by country basis.

How do you allocate the cost of a world focus tradeshow held in Germany where you get visitors from the different markets attending? UK visitors cannot be counted but those from

Switzerland can be. Switzerland is not part of Asia, it is however not part of the EU and hence a market that can be claimed for years 6, 7 and 8.

Incorrect apportionment that is not agreeing with Austrade's methodology at audit, lack of substantiation and issues as claimed expenditure not being for an "approved promotional purpose", we believe will produce a higher level of complexity, dispute and appeal resolution and hence administration costs for both grant applicants and Austrade.

I am happy on behalf of my association to answer any additional questions that committee members may have in relation to this area

Payment made to Consultants for submitting EMDG applications.

This issue seems to have risen to the fore in reviewing the bill. It has nothing to do with the bill being looked at by the committee. We think the matter has been raised to focus on this matter as part of the justification for the "Fit and Proper" provisions to be implemented.

Does this mean that if a consultant "overcharges" a client then the provisions of fit and proper will be implemented? We hope not.

All grant payments are income of an applicant. Over 50% of applicants choose to use a grants agent/consultant to help them prepare an application. It is a commercial decision to use a consultant or not.

In all grant applications there is work to be performed either by a client internally or out sourcing the function. The applicant makes their decision with full knowledge of the cost involved and also on their perceived ability to carry out the task of submitting the application without a consultant. You cannot prepare an application without substantial preparation work. Austrade tells us in Mr. Thompson's submission that an audit is a labour intensive process. It is a simple fact that to prepare and lodge an application takes a lot, lot longer to do than for Austrade to assess.

We provide a service to our clients and minimise overclaiming on the scheme as per past statistics provided to us by Austrade.

If we not provide a service to the level required by our client we would not be paid or invited back to prepare the following year's application.

In terms of Austrade advice, we make the following comments;-

- Austrade has no factual basis to determine what fee arrangements for our member and all consultants are in general. This is a commercial arrangement between applicants and consultants.

- We are not aware of any complaint to Austrade about a consultant overcharging a client of the scheme or grant money not being paid to a client in a timely manner.

We state in response the following:-

- We fully support any proper action to improve the overall probity of the scheme.
- Austrade should not use the “fit and proper” provisions of the Act to interfere with commercial fee arrangements with clients of the scheme.
- Many EMDG applications are complex (Approved Bodies and Joint Ventures) and take many, many hours to prepare. All applications have to be prepared and lodged at a level that is ready for 100% audit and detailed review by Austrade.
- The Austrade requirements on accuracy and level of documentation are increasing each year and more and more of the audit function is placed on a consultant and clients of the scheme. The scheme is more and more self-assessment based; you do have to get it right otherwise the grant will not be paid.
- We get paid when our client does. This is similar to a real estate broker getting paid when a property settles or a lawyer when a matter is concluded. Most clients prefer this as there is no upfront cost to them and they are not presented with a large time based bill that they have not budgeted for and cannot pay.
- Most clients prefer the percentage rate. Our clients drive the market demand and pricing not us. Fee structures are advised up front and agreed to before commencement of the assignment.
- Our fees are often lower than the cost of preparing the application internally. The work has to be done by someone; we are generally cheaper, quicker and have a lower risk of failure. This is the value proposition to our clients

Our role would be reduced if the scheme was simplified. Austrade’s internal administration costs would reduce as well. The current changes will make the scheme more complex and hence we think the demand for our services will actually increase.

In Summary

We do not think it is the right time for the proposed changes and there is no need to divide the EMDG overseas markets into 2 globes. Export opportunities will be lost.

Any major changes to the scheme need to be done as part of the 2015 review.

We do not think the “fit and proper” rules are ready to be implemented. The required Ministerial Guideline required under the bill has not been prepared as yet. We need to work through things with Austrade. We are very keen to be involved and are sure we can sort the matter out to both party’s satisfaction given time to do so.

We can see no benefit to exporters for the balance of the proposed changes, other than to remove the redundant “event promoters” provisions as a simple and effective simplification to the scheme. Joint Ventures should remain as they do make a difference and for the small amount of expenditure paid to such applications.

Austrade’s data to support the changes to the scheme is not current; it is 12 months out of date.

Thank you again for allowing us to be part of this process

Stuart Mitchell

Stuart Mitchell

Acting Chairperson

Export Consultants Association (ECA)

Mitchell and Co Chartered Accountants 2A Charles St Norwood.