Ai GROUP SUBMISSION

Industrial Relations
Victoria

Victorian Labour Hire Licensing Scheme Exposure Draft Regulation

7 September 2018

About Australian Industry Group

The Australian Industry Group (Ai Group) is a peak industry association in Australia which along with its affiliates represents the interests of more than 60,000 businesses in an expanding range of sectors including: manufacturing, engineering, construction, automotive, food, transport, information technology, telecommunications, call centres, labour hire, printing, defence, mining equipment and supplies, airlines, health, community services and other industries. The businesses which we represent employ more than one million people. Ai Group members operate small, medium and large businesses across a range of industries. Ai Group is closely affiliated with many other employer groups and directly manages a number of those organisations.

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Summary

Ai Group welcomes the opportunity to provide its response to the *Labour Hire Licensing Regulations - Exposure Draft* (**Draft Regulations**) released by the Victorian Government on 7 August 2018. The Draft Regulations are to support the *Labour Hire Licensing Act 2018 (Vic)* (**LHL Act***).* While parts of the LHL Act are already operative, the Victorian Government has announced that the LHL Act's licensing requirements are not expected to begin before early 2019.

Ai Group considers the Draft Regulations to be inadequate. As drafted, the Regulations do not provide sufficient clarity regarding the scope of the licensing scheme and would leave businesses in numerous industries exposed to risks, uncertainty and other problems.

The Draft Regulations fall well short of providing the necessary and intended exclusions from the licensing scheme of non-labour hire arrangements.

The very limited exclusions provided by the Draft Regulations, combined with extremely broad definitions in the LHL Act of a "provider" of labour hire service and of a "worker" create significant confusion and uncertainty for individual businesses, supply chains, sub-contracting arrangements and broader Victorian industry.

Ai Group has proposed some amendments to the Draft Regulations to exclude business arrangements that should not be regarded as labour hire services.

Also, it is not appropriate that the mutual recognition provisions in the LHL Act be restricted to natural persons. The limitation is unwarranted and would require a vast number of businesses operating across borders to hold and fund multiple labour hire licences in different States, with Victorian licences costing significantly more than elsewhere. Ai Group is not convinced that this limitation in the Draft Regulations is consistent with the LHL Act.

Previous Ai Group submissions of relevance to the Draft Regulations

Ai Group participated in the Victorian Government's Inquiry into the *Labour Hire Industry and Insecure Work* in October 2015. We made a detailed Submission and Reply Submission.

Ai Group also made the following submissions in respect of the Victorian labour hire licensing scheme:

- Ai Group Submission re Victorian Government's Labour Hire Licensing Proposal, June 2017
- Ai Group Submission on the *Consultation Paper – Development of Regulations*, December 2017.

Our submission responding to the Victorian Government's *Consultation Paper – Development of Regulations* advocated for an appropriate and clear list of excluded workers and activities from the Victorian licensing scheme. Indeed the Consultation Paper had already identified many of the workers and activities that needed to be excluded from the scheme.

Ai Group also raised significant concerns and practical problems with the labour hire licensing schemes in Queensland and South Australia. The following Ai Group submissions are relevant:

- Ai Group Submission re Labour Hire Licensing Bill 2017 (Queensland), June 2017
- Ai Group Submission re Labour Hire Licensing Bill 2017 (South Australia), 8 September 2017
- Ai Group Submission re Consultation on Proposed Regulation for the Queensland Labour Hire Licensing Scheme, 2 February 2018

Notwithstanding the problems that are very evident in the other States, The Draft Regulations adopt many of the same problematic elements in the Queensland and South Australian licensing schemes.

Lessons from Queensland and South Australia

Ai Group is continuing to observe large-scale confusion within industry over the application of the Queensland labour hire licensing scheme. As a result, this has led to high levels of uncertainty over existing and future commercial arrangements. This is largely due to:

- The adoption of excessively broad statutory definitions of a "provider" of "labour hire services" and of a "worker" that capture may arrangements not commonly understood as labour hire;
- The application of the licensing scheme being tied to the supply of each worker, the circumstances and arrangements of which may vary from time to time;
- Only very limited categories of workers being excluded from the scheme which creates ambiguity and uncertainty;
- There being no ability for the licensing authority to provide private rulings or determinations;
- There being an inflexible application of the scheme to unplanned, ad-hoc or urgent supplies of services, which has resulted in the scheme applying to businesses that are not otherwise providers of labour hire services;
- The scheme containing excessive criminal and financial penalties;
- Users of labour hire services being unable to readily determine whether an organisation that supplies services to them (beyond what are typically regarded as labour hire services) is required to hold a licence.

Many of these problems were foreshadowed by Ai Group in our submissions (as referred to above).

Given that the Queensland scheme does not have a clear scope, many organisations have taken excessively cautious (but understandable) approach by requiring their contractors, subcontractors and suppliers to hold licences regardless of whether they meet the definition of a labour hire service

provider in the circumstances. Commercial pressure is driving a large number of unnecessary licence applications. This has added to industry costs and has reduced competitiveness. It has also created a great deal of unnecessary work for the licensing authority whose resources would be better spent targeting those labour hire businesses that have a demonstrated history of non-compliance with relevant laws.

The reporting obligations under the Queensland scheme cover a vast array of matters, and this has led to industry concerns about how such data will be captured and secured.

In respect of the South Australian labour hire licensing scheme, we note that the South Australian Government has announced that it will not enforce licensing obligations until 1 February 2019, to enable proper consideration of the submissions received by stakeholders about the licensing scheme.

The Queensland and South Australian experiences highlight the need for the Victorian Regulations to be very carefully drafted. Substantial amendments need to be made to the Draft Regulations or else there is no doubt that the major problems that have occurred in the other States will be duplicated in Victoria.

We have set out some proposed amendments to the Draft Regulation below, and addressed particular issues of concern in more detail.

Scope of the licensing scheme

Part 2 - Labour hire Services

The LHL Act has an unreasonable reach across industry, well beyond what is commonly understood as labour hire. It imposes very burdensome regulatory and reporting obligations. It gives broad discretionary powers to the licensing authority and contains severe penalties. The LHL Act will cause costly and extensive disruption to Victorian industry and its competitiveness. The adverse effects on industry will be reduced if appropriate Regulations are made under the Act.

A very large number of businesses will be directly affected by the labour hire licensing scheme as both providers of labour and users of labour provided by other businesses.

While the Draft Regulations provide some exemptions by reference to individuals who are not workers, these exemptions are extremely limited and do not adequately deal with the vast number of business arrangements where labour is supplied to some degree, including where the supply of labour is not the dominant purpose of the provider's business or the engagement. Such arrangements include:

- Genuine sub-contracting;
- Supply chain arrangements;
- Outsourcing;

- Provision of trade and professional services.

Victorian industry, including large infrastructure projects, are based on many of these arrangements, with larger businesses engaging up to 5,000 or more separate contractors and sub-contractors to support the work and business functions that they are engaged in.

We note and welcome the Government's description of the intended limited coverage of the LHL Act in Parliament, as described by Minister Pulford and recorded in Hansard on 25 May 2018 as follows:

> "There are a number of working arrangements that are already excluded by the existing provisions of the bill and therefore do not need to be excluded by regulations. Again, the supply of a worker to an individual not conducting a business or undertaking is excluded. Only the supply of a worker working in and as part of the business of the host will be covered.
>
> So the example I can provide here is of an accounting firm that provides an accountant to prepare tax documentation for a client's business but does not provide labour hire services, as the accountant is performing the work in and as part of the accounting business and not the client's business. Thirdly, the provision of professional or trade services to a third party will generally not come within the scheme. For a business to be a labour hire provider under the bill a worker supplied by the business to a host must be working in and as part of the host's business. This is the standard operating model for most professional and trade service companies.
>
> Similarly, genuine subcontracting arrangements will not fall within the scheme as the subcontractor is not performing work in and as part of a business or undertaking of the host. Outsourcing arrangements will not be covered by the scheme where the outsourcing means the workers are no longer performing work in and as part of the business or undertaking of the host. Finally, the supply of volunteers is not covered under the scheme, because they do not meet the definition of 'worker' under the bill."

While Ai Group acknowledges Minister Pulford's description of the limited coverage of the scheme, we do not consider that the activities of sub-contracting, outsourcing arrangements or the provision of trade, maintenance or professional services have been adequately excluded from the LHL Act.

The Draft Regulation need to remedy this and, given the Government's publicly expressed intent, such exclusions should not be controversial.

It is inadequate that this critical description of the Government's intention about the application of the licensing scheme should find no reference in the words of the LHL Act or Regulation itself. Hansard recordings of Parliamentary debate carry limited weight when a Court needs to interpret legislation.

It is essential that the coverage of the licensing scheme is clear, in order to reduce uncertainty and to assist in the efficient and smooth delivery of Victorian infrastructure projects and services. In our view the Draft Regulations do not achieve this.

Ai Group urges the Government to adopt the following amendment to the Draft Regulations, which would ensure consistency with the Government's expressed intention of the scheme's coverage, as described in Parliament.

The proposed amendment would replace the current clause 4(1) contained in the Draft Regulations.

Part 2- Labour Hire Services

4 When a person does not provide labour hire services

(1) For purpose of the section 11(a) of the Act, the following classes of individuals are prescribed—

(a) persons who a provider provides to another person to do work as part of a genuine supply chain or a contracting or subcontracting arrangement that does not involve the on-hire of a worker to a host to work under the instruction of the host, including, but not limited to, a supply chain or a contracting or subcontracting arrangement in the construction industry;

(b) persons who a provider provides to another person to do work as part of the outsourcing of a business or part of a business to a third party;

(c) persons who a provider provides to another person to do work if the supply by the provider of one or more individuals to perform work for other businesses is not the main purpose of the business ordinarily carried on by the provider;

(d) persons who a provider provides to another person to do work as part of a short term, ad hoc arrangement between businesses;

Note: Examples of such arrangements are workers of one farm business assisting another farm business by picking crops for a day, or workers of one concrete business providing assistance to another concrete business during a concrete pour.

(e) persons who a provider provides to another person to do work

(i) in the case of a provider that is a body corporate, for a related body corporate, within the meaning of the Corporations Act, of the provider; or

(ii) in the case of a provider that is a partner in a joint venture, for an entity that is a common joint venture partner of the provider;

(iii) in the case of a provider that is part of an entity or group of entities that jointly carry on business as one recognised business, for another entity in the business;

(f) persons who a provider provides to another person to do work as part of a bona fide secondment arrangement;

(g) persons who a provider provides to another person to do work as part of a consultancy arrangement;

(h) persons who a provider provides to another person to do work, in the case of a provider that is a body corporate, if an individual supplied by the provider is an executive officer of the body corporate and is the only individual supplied by the provider to perform work for the host;

(i) persons who a provider provides to another person to do work if the supply of the individual or individuals to the host is not for the purposes of a business or undertaking conducted by the host, including but not limited to the situation where the supply is for the domestic or personal purposes of the host;

(j) persons who a provider provides to another person to do work as part of a group apprenticeship or trainee scheme;

(k) persons who a provider provides to another person to do work if the individual or individuals supplied to the host are Australian legal practitioners performing work for a client;

(l) persons who a provider provides to another person to do work if the individual or individuals supplied are employees of an organisation registered under the *Fair Work (Registered Organisations) Act 2009* of the Commonwealth, in the course of providing assistance to members of that organisation; and

(m) persons who a provider provides to another person to do work as part of a work experience arrangement or an educational placement."

Notwithstanding the Government's apparent view that many of these services would not form part of the definition of a "provider" of "labour hire services", the amendment is necessary to provide clarity and certainty.

Construction

Infrastructure projects, including project stages, must be completed within tight deadlines. The employees of construction businesses necessarily cooperate and work alongside each other in order to achieve the common goal of completing the project on time and on budget. Much of the cooperative work between the employees of different subcontractors is not subject to contractual arrangements between those businesses. It is unclear as to whether a worker supplied to perform work "in and as part of a business or undertaking of the host" would extend to a major project, where the host may either be the head contractor, the owner of the site, or the particular sub-contractor the labour is supplied to.

Some common scenarios are outlined below – none of which are legitimately covered by the labour hire licensing scheme:

- Work carried out on a project by the employees of contractors and subcontractors;
- The employees of one subcontractor on a construction project assisting the employees of another subcontractor, for example during a concrete pour or when trucks delivering materials are being unloaded;
- The employees of one joint venture partner working with employees of other joint venture partners;
- The employees of one corporate entity in a construction group providing services to other related entities in the same corporate group.

Joint ventures are not adequately excluded from the licensing scheme. A number of construction companies may deliver work or services as part of an unincorporated or incorporated joint venture with third parties. Some common joint venture scenarios are below:

- A Company and its JV partner (JVP) sign a joint venture agreement pursuant to which they agree to join, providing market knowledge, expertise, personnel and financial support to enable them to deliver (jointly) a bid to be appointed as head contractor for the delivery of works or services on a construct-only or design and construct basis. If successful, the Company and its JVP are appointed as the 'Contractor'. They provide the contract administration, design management, project management and supervision services to the Principal together. The Company's contribution depends upon the terms of the joint venture agreement. It may, for example, agree to provide all financial administration services, and 50% of the staff needed for management, supervision and coordination of the works or services.

- Sometimes, the Company as part of its agreement with its JVP, provides its own employed personnel on the project as part of a service to the JVP, whether at the pre-tender or tender stage or after the joint venture is awarded the contract. This means that the relevant personnel remain employed by the Company and retain all entitlements and terms and conditions of their employment, but their duties are confined to the project being pursued or delivered by the joint venture. This work typically consists of temporary works designers, programmers, contract administration, engineering, site supervision, etc used to deliver contracted works or tender. The joint venture contract contemplates the services provided by the Company and reimburses the Company at agreed rates for such services.

Businesses that work on construction projects operate under competitive tendering processes. There would be costly delays to projects (including Government projects) and a great deal of uncertainty if businesses tendering for work had to second-guess whether or not their particular business structure and contracting arrangements results in them being deemed to be a provider or user of labour hire services. Clarity is essential in the Regulations to ensure that such arrangements are excluded from the licensing scheme.

Further, any requirement for licence applicants to disclose project information (much of which may be confidential or unknown), would make the process of applying for a licence extremely difficult.

Not-for-profit group apprenticeship and traineeship schemes

Without an appropriate exclusion in the Regulations, the LHL Act will impose an unreasonable cost and regulatory burden on not-for-profit group training providers which coordinate the training of tens of thousands of apprentices and trainees. The LHL Act would:

- Exacerbate the current youth unemployment problems in Australia;

- Reduce the career opportunities for many thousands of young Australians; and

- Lead to skill shortages in numerous industries.

Group training schemes operated by not-for-profit bodies like Australian Industry Group Training Services (AiGTS) coordinate the training of over 25,000 apprentices and trainees Australia-wide. They fulfil a vital role in the community and should be excluded from the licensing scheme through the Regulations.

Such an exclusion has already been provided in South Australia through s.5 of the *Labour Hire Licensing Act 2017 (SA)*which stated:

> **5—Registered group training organisation exempt from application of Act**
>
> (1) This Act does not apply in respect of a registered group training organisation to the extent that the organisation supplies apprentices or trainees to do work for other persons.
>
> (2) In this section-
>
> ***Registered group training organisation*** means a group training organisation registered in South Australia on the Group Training Organisation National Register maintained by the Commonwealth.

An appropriate exclusion should be implemented in Victoria through the Regulations, as set out in paragraph 4(1)(j) in the new Regulation 4 that we proposed earlier in this submission.

It is important to have consistency over the coverage of registered group training organisations given that many operate nationally or across State borders.

Individuals not workers

The exclusions in Regulation 4 in the Draft Regulation are far too narrow and leave a very wide range of work arrangements inappropriately covered by the legislation.

The use of the phrase, and definition of, *"secondee"* in paragraph 4(1)(a) and Regulation 3 – Definitions, is problematic. There are a huge number of contracting arrangements that could remain inappropriately covered by the legislation, e.g. electrical contracting businesses whose electricians carry out electrical work on construction projects, plumbing contracting businesses whose plumbers carry out plumbing work on client's premises; and IT, office equipment and telecommunications companies whose field technicians carry out work on client premises and on client-owned equipment. Ai Group remains concerned that employees of such businesses are likely to be captured by the scheme in the absence of clear exclusions of the types of arrangements identified in the amendment set out above.

The inclusions of concepts such as *"regular and systematic basis"* and *"a reasonable expectation that the employment with the provider will continue"* in the definition of "secondee" would bring a business within the licensing scheme simply because it engaged a casual employee to meet a period of high demand.

If the Government maintains Draft Regulation 4(1), rather than the different wording that we proposed for Regulation 4 earlier in this submission, we propose the following amendments to address some of these problems:

> **3 – Definitions**
> **secondee**, means a worker of a provider, who the provider provides to another person to do work on a temporary basis and -
>
> (a) is engaged as an employee by the provider ~~on a regular and systematic basis~~; and
> ~~(b) has a reasonable expectation the employment with the provider will continue; and~~
> ~~(c)~~(b) primarily performs work for the provider other than as a worker supplied to another person (the **host**) to do work ~~for the other person~~ in and as part of a business or undertaking of the host.

Ai Group also considers the following amendment necessary in respect of the exclusion applying to workers supplied within related businesses in clause 4(1)(b):

> (b) persons who a provider provides to another person to do work in the circumstances where the provider and the other person are each part of an entity or group of entities that carry on business collectively as one recognisable business or are related bodies corporate under the Corporations Act 2001.
>
> Examples—
>
> 1 A landscaping business is comprised of a number of companies that are responsible for different aspects of the business. The business's workers are all employed by 1 of the companies and are supplied to work for 1 or more of the other companies.
>
> 2 A business that operates a group of medical centres employs all of the workers for the centres through a trust entity. The workers, including doctors, nurses and reception staff, are supplied to the medical centres to perform work.

In respect of the exclusion of workers who are also directors of a body corporate and meet the definition in paragraph 4(1)(c) in the Draft Regulations, an exclusion like this is necessary to recognise that many business owners and/or consultants regularly perform work in and as part of another business, but not in a labour hire relationship as commonly understood. However, as we have seen in Queensland, the exemption is extremely rigid in its application and assumes that at all times directors are available to perform the work. For instance, a family business with two directors may call on another non-director family member to perform the work if one of the directors that would ordinarily perform the work is sick. Alternatively, an emergency piece of work required on a construction site for work, health and safety purposes may require both directors to delegate the work to another worker if those directors are already engaged in critical work on the same project.

We accordingly suggest the following amendment:

> (c) persons who the provider provides to another person to do work if the provider is a body corporate with no more than 2 directors and the person ordinarily provided by the body corporate is a director of the body corporate who participates in the management of the body corporate of shares in its profits.

When an individual is taken to perform work in and as part of a business or undertaking

Ai Group notes clause 5- *Circumstances in which an individual is taken to perform work in and as part of a business or undertaking*, identifies select industries in which workers supplied are taken to be workers supplied under the definition of labour hire services in ss.7 and 8. It appears that the identified industries also featured in the Government's Inquiry into the Labour Hire Industry and Insecure Work, and were the subject of recommendations that these industries form the initial sector focus for the creation of a labour hire licensing scheme. The Victorian Government has instead elected to create a licensing scheme across all industries, including beyond the labour hire industry.

Ai Group considers clause 5 to be problematic by inappropriately extending the application of the labour hire scheme to a large number of businesses that may not be labour hire businesses and consequently impose further obligation on users of those businesses as users of labour hire service providers.

For instance, regulation clause 5(1)(a) in respect of individuals performing activities as a cleaner in commercial premises, would result in many facilities management organisations supplying individuals whose activities may include cleaning tasks as being covered by the licensing scheme as a provider of labour hire services. Consequently, any business operating in commercial premises, regardless of whether they own the premises, and regardless of whether they in fact directly engage the relevant facilities contractor or not, may, under s.15 of the LHL Act be required to use only a licensed provider if it was their business in which the individual performing cleaning activities was supplied to.

Mutual recognition

In relation to s.112 – *Interstate Licencees may be registered* of the LHL Act, Ai Group is extremely disappointed with the Government's view, as expressed in its *List of Questions – Exposure Draft Regulations* paper that the benefits of mutual recognition only apply to natural persons who hold a labour hire licence in another State. Ai Group is not convinced that this interpretation of s.112 is correct. Section 112 states that the *Mutual Recognition Act 1992* applies as if "*providing labour hire services"* were an occupation within the meaning of that Act. The legislative note states that:

> "…In accordance with the section 17 of the Mutual Recognition Act 1992 of the Commonwealth, a person who holds the right to provide labour hire services in another State or Territory will be, on notifying the Authority, entitled to be registered as a licensed labour hire provider in Victoria."

Under s.7 of the Act, the definition of "*provides labour hire services*" is based on the provision of such services by a "person". Also, s. 17 entitles a "person" to apply for a licence. Section 24 empowers the Authority to grant a licence if certain conditions are met, including whether the "person" who made the application was not prevented from doing so by s.18. The term "person" is

not separately defined in the LHL Act and is used broadly to include a body corporate.

Section 112 entitles persons who hold the right to provide labour hire services in another State or Territory (and this includes bodies corporate) to mutual recognition.

There is also nothing in the Parliamentary debate or supporting memorandums accompanying the amendment that suggests that section 112 is to be limited to natural persons only. The Government accepted section 112 as a late amendment to the LHL Act.

Limiting mutual recognition to individual persons is inconsistent with s.112 of the Act and would be meaningless in reducing the regulatory burden and cost to industry from the requirement to hold different licences in different States or Territories.

Prescribed laws or schemes for the purposes of s.111 of the LHL Act

Regulation 28 in the Draft Regulations identifies prescribed laws for the purpose of the Authority not requiring the provision of information and determinations for fit and proper persons under s.111.

The following additional laws and regulations should be added to the prescribed laws in clause 28, including:

(v) *Legal Profession Uniform Law Application Act 2014* (Victoria)

(vi) *Fair Work (Registered Organisations) Act 2009* (Cth)

The legal industry is highly regulated and a further layer of regulation is not justified. Also, the confidentiality provisions that apply to lawyers may be inconsistent with the information that must be provided under the labour hire licensing scheme. In order to obtain a legal practicing certificate, a lawyer must demonstrate that he or she is 'fit and proper'.

The *Fair Work (Registered Organisations) Act 2009 (Cth)* already places significant regulatory and reporting requirements on registered organisations to ensure that such organisations comply with the law and are operated for the benefit of their members. This legislation should be added to the list in Regulation 28(1).

Licence Fees

Based on the current value of 1 monetary unit at $14.45, and by reference to the *Monetary Units Act 2004 (Vic)* Ai Group has calculated the proposed fees for a Victorian licence below.

Tier	***Application / Renewal Fee***	***Annual Fee***	***Total Cost for 3 years (maximum licence term)***
Annual turnover $2,000,000 or less	$1,560.60	$1,083.75	$4,811.85
Annual turnover $2,000,001 - $10,000,000	$4,161.60	$2,890.00	$12,831.60
Annual turnover more than $10,000,000	$7,687.40	$5,317.60	$23,640.20

The cost of the proposed licence fees, resulting from combining the application and annual fee, are unreasonably high, particularly given that Victorian licences have only a 3 year maximum term. Licence fees in South Australia are, by contrast, much lower. South Australian labour hire licences only requiring a one-off application and continue indefinitely unless certain events occur. The proposed licence fees should be reduced in line with neighbouring South Australia.

Ai Group considers that the unreasonably high cost of licence fees (both application/renewal and periodic) is unjustified and will have a detrimental impact on investment and business operations in Victoria.

The threshold categories are based on annual turnover. In the context of many labour hire businesses this does not necessarily reflect the scale, capacity or resources of that business. A business may generate a higher turnover because it provides more highly paid skilled workers to its clients. The threshold therefore may disproportionately affect operators supplying specialist or professional labour. This questions the rationale for such a large variance in fees between licence tiers which is further not reflected in the licence fee structures in Queensland and South Australia.

As well as being reduced, licence fees should also be economised so that labour hire service providers with multiple related entities, each required to hold a licence, should not be charged the full fee on application, renewal and periodically. A significant number of established and reputable labour hire businesses, large and small, operate with multiple business entities. Businesses are frequently structured this way as a legacy of merging or acquiring other businesses, because of conditions imposed by many financial institutions in respect of financial lending requirements, or to improve efficiencies.

Ai Group notes that the discussion paper (List of Questions – Exposure Draft Regulations) identifies that the term “business” may be applied in differing ways by the Licensing Authority based on the application of particular indicia that point towards whether a business is separate from another business. We note that the Government has not proposed any regulatory treatment on this issue, but has referred to the Licensing Authority’s power to make guidelines setting out relevant indicia

to make decisions about whether one business should be regarded as separate for the purposes of the administering the Act.

Due to the diverse way in which many businesses are structured, operated and marketed, Ai Group favours an approach that affords businesses flexibility in determining how it manages the number of licences it applies for. Businesses which consider their various divisions as part of the one business and consequently apply for a single licence, would be assuming a level of risk, as described in the discussion paper, of the broader business being impacted by a cancelled licence in contrast to a particular division. However, such businesses may also share IP, key management personnel, the same payroll or support services, internal management or IT systems that would enable the broader business to function cohesively and would impose an unnecessary regulatory burden and cost in holding multiple licences. Other businesses may prefer that their distinct divisions hold separate licences because of client expectations and/or the specialised services provided.

It is important that the Licensing Authority does not adopt a "one-size-fits-all" criteria in any guidelines. In addition to dealing with the above issue, the guidelines may also be used for the purpose of a licence fee discount policy, or refund policy, if businesses have applied for multiple licences when they may not be required to. We would be happy to be consulted during the development of the indicia.