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Vaughan, Sharyn

From: Davidson, Elise
Sent: Friday, 29 June 2018 9:02 AM
To: Vaughan, Sharyn
Cc: Herron, Will; Burr, Elise
Subject: FW: Follow up question / Indigenous art [SEC=UNCLASSIFIED]

Security Classification:
UNCLASSIFIED

From: Davidson, Elise
Sent: Thursday, 14 June 2018 9:40 AM
To: Heys, Nicholas <Nicholas.Heys@accg.gov.au>
Subject: RE: Follow up question / Indigenous art [SEC=UNCLASSIFIED]

Great, thanks.

From: Heys, Nicholas
Sent: Thursday, 14 June 2018 9:31 AM
To: Davidson, Elise <elise.davidson@accg.gov.au>
Subject: RE: Follow up question / Indigenous art [SEC=UNCLASSIFIED]

How about this?

From: Davidson, Elise
Sent: Thursday, 14 June 2018 9:00 AM
To: Heys, Nicholas <nicholas.hey@accg.gov.au>
Subject: RE: Follow up question / Indigenous art [SEC=UNCLASSIFIED]

How's this?

The ACCC conducts investigations when we have a reason to believe misleading claims are being made about products or art being produced by Indigenous Australians when they are not. This work is important to the ACCC because misleading claims have the potential to undermine the integrity of Indigenous art and negatively impact Indigenous artists, including by undervaluing or trivialising their authentic works. People who buy handmade Indigenous art or products should also have the assurance that the claims being made are genuine.

The ACCC is able to address two types of misleading conduct involving both express and implied representations. Express representations may include a label or a statement by the seller direct to the consumer stating that it is authentic indigenous art. Can we add a line here about express representations? Implied representations may arise when the product is painted in a traditional Indigenous style, contains some form of representation as to 'hand painted' or 'hand crafted' or reference to Indigenous Australia, but has no information as to its true country of origin.

The ACCC has a history of action in this area. Recently, we investigated several allegations of such conduct referred to us under the Indigenous Art Code and took court action against one trader. That matter is before the court. We are currently investigating further allegations and may take further action this year.

Enforcing the consumer law in relation to issues like these that negatively impact Indigenous Australians is an enduring priority for the ACCC. We hope our continued vigilance in this area will send a strong deterrent message to other traders who seek to mislead or deceive.

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From: Davidson, Elise
Sent: Thursday, 14 June 2018 8:02 AM
To: Jennings, Libby <elizabeth.jennings@acc.gov.au>; Gregson, Scott <scott.gregson@acc.gov.au>; Eckermann, Kate <katrina.eckermann@acc.gov.au>
Cc: Heys, Nicholas <nicholas.heids@acc.gov.au>; Vaughan, Sharyn <sharyn.vaughan@acc.gov.au>; Dowers, Michael <michael.dowers@acc.gov.au>; Anderson, Michael <michael.anderson@acc.gov.au>
Subject: RE: Follow up question / Indigenous art [SEC=UNCLASSIFIED]

Morning Libby, Scott and Kate,

Thanks for this, we will send basically this version with a few minor tweaks. Can send final if you're interested.

The purpose of the statement is to assist the producer in getting the language right around misleading, and understand the sort of things we look for in our investigations. We deal with a range of current affairs programs and often help out behind the scenes, so nothing to be concerned about.

The story might run this Sunday, but will keep you posted. Apparently it all depends on the Voice!

E

-----Original Message-----

From: Jennings, Libby
Sent: Wednesday, June 13, 2018 08:05 PM AUS Eastern Standard Time
To: Gregson, Scott; Eckermann, Kate
Cc: Heys, Nicholas; Vaughan, Sharyn; Dowers, Michael; Davidson, Elise; Anderson, Michael
Subject: RE: Follow up question / Indigenous art [SEC=UNCLASSIFIED]

Hi Elise and Michael

I'd be really grateful if you could send us the final version that you settle on.

I assume that we do not regularly liaise with 60 Minutes, and given they want something in writing from us now (rather than the Delia interview), we'll be keen to see how they actually use our words in their story.

Many thanks

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Lib

Elizabeth Jennings

A/g General Manager | Enforcement Queensland and Northern Territory
Australian Competition & Consumer Commission
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The ACCC acknowledges the traditional owners and custodians of Country throughout Australia and recognises their continuing connection to the land, sea and community. We pay our respects to them and their cultures; and to their Elders past, present and future.

LG  Ally

From: Gregson, Scott

Sent: Wednesday, 13 June 2018 6:50 PM

To: Eckermann, Kate <katrina.eckermann@acc.gov.au>

Cc: Heys, Nicholas <nicholas.hey@acc.gov.au>; Vaughan, Sharyn <sharyn.vaughan@acc.gov.au>; Dowers, Michael <michael.dowers@acc.gov.au>; Jennings, Libby <elizabeth.jennings@acc.gov.au>; Davidson, Elise <elise.davidson@acc.gov.au>; Anderson, Michael <michael.anderson@acc.gov.au>

Subject: RE: Follow up question / Indigenous art [SEC=UNCLASSIFIED]

All good with this - thanks for the work

Elise / Michael - hope this works - room to cut a little if you think too long.

Regards

Scott

Sent with Good (www.good.com)

-----Original Message-----

From: Eckermann, Kate

Sent: Wednesday, June 13, 2018 05:13 PM AUS Eastern Standard Time

To: Gregson, Scott

Cc: Heys, Nicholas; Vaughan, Sharyn; Dowers, Michael; Jennings, Libby

Subject: RE: Follow up question / Indigenous art [SEC=UNCLASSIFIED]

Hi Scott

I've drafted the below talking points with the help of Sharyn & Mick.

- Dealing with consumer law issues that impact on Indigenous Australians is an enduring priority for the ACCC.
- The ACCC views as serious misleading claims that give the impression that products or art are produced by Indigenous Australians when they are not. Such misleading claims have the potential to impact not just customers, who think they are buying genuine handmade Indigenous art or products, but they also have the potential to undermine the integrity of Indigenous art and negatively impact Indigenous artists, including by undervaluing or trivialising their authentic works. Furthermore, passing off for commercial gain artwork or cultural objects as being hand-painted or made by Indigenous Australians may be considered within Indigenous Australian communities to be culturally demeaning.

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- The ACCC is able to address misleading conduct involving both express or implied representations. Implied representations may arise when the product is painted in a traditional Indigenous style, contains some form of representation as to 'hand painted' or 'hand crafted' or reference to Indigenous Australia, but has no information as to its true country of origin.
- The ACCC has a history of action in this area. [REDACTED] we considered several allegations of such conduct and commenced proceedings against one trader. That matter is before the court. We continue to investigate further allegations and may take further action in the second half of this year.
- [REDACTED] and will look to leverage off outcomes in current matters to try to address this kind of conduct in the industry.

One thing we queried is the line you had in your draft talking points below: "There is sometimes a difference between the sale of products which are not genuine Indigenous products and express or implied representations of Indigenous production." We weren't sure exactly what you were intending by that statement, so we've left it out of the above talking points (on the basis that if we didn't fully understand, then 60 Minutes would likely not understand). However I'm happy to add something back in if you are able to clarify what was intended.

[REDACTED]

Let me know if you have any queries or changes.

Kate Eckermann

Assistant Director | Enforcement Coordination

Australian Competition & Consumer Commission

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From: Gregson, Scott

Sent: Wednesday, 13 June 2018 10:02 AM

To: Heys, Nicholas <nicholas.heys@acc.gov.au>; Vaughan, Sharyn <sharyn.vaughan@acc.gov.au>; Eckermann, Kate <katrina.eckermann@acc.gov.au>; Dowers, Michael <michael.dowers@acc.gov.au>; Jennings, Libby <elizabeth.jennings@acc.gov.au>

cc: Gregson, Scott <scott.gregson@acc.gov.au>

Subject: RE: Follow up question / Indigenous art [SEC=UNCLASSIFIED]

Thanks Nick.

Pleased to keep this quite simple and perhaps take from current talking points but try to keep a bit more conversational given format. But along lines:

- The ACCC has an enduring priority to deal with consumer law issues impacting on Indigenous Australians,
- Misleading claims that give the impression that products or art is produced by Indigenous Australians when they are not are serious and have the potential to impact not just customers but also Indigenous artists and more generally their culture [perhaps look at words in the Birubi MR]
- There is sometimes a difference between the sale of products which are not genuine Indigenous products and express or implied representations of Indigenous production. The ACCC is able to address conduct when it is misleading.
- The ACCC has a history of action in this area. [REDACTED] we commenced a number of investigations and commenced proceedings against one

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trader. That matter is before the court. We have other ongoing investigations and may take further action in the second half of this year.

- [REDACTED] and will look to leverage off outcomes in current matters in lifting the conduct we are seeing in the industry.

Scott Gregson

Executive General Manager, Enforcement Division

[Australian Competition & Consumer Commission](#)

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From: Heys, Nicholas

Sent: Wednesday, 13 June 2018 9:52 AM

To: Vaughan, Sharyn <sharyn.vaughan@acc.gov.au>; Eckermann, Kate <katrina.eckermann@acc.gov.au>; Dowers, Michael <michael.dowers@acc.gov.au>; Jennings, Libby <elizabeth.jennings@acc.gov.au>

cc: Gregson, Scott <scott.gregson@acc.gov.au>

Subject: FW: Follow up question / Indigenous art [SEC=UNCLASSIFIED]

Scott – not sure whether you've passed this on, do you want Kate to coordinate?

Kate – if we need to pull something together on this are you able to work this up in conjunction with Shaz, Mick and Lib?

From: Davidson, Elise

Sent: Wednesday, 13 June 2018 9:26 AM

To: Gregson, Scott <scott.gregson@acc.gov.au>; Anderson, Michael <michael.anderson@acc.gov.au>; Heys, Nicholas <nicholas.hey@acc.gov.au>

Subject: FW: Follow up question / Indigenous art [SEC=UNCLASSIFIED]

Hi all

Just following up on this. Scott, appreciate you have a lot on so copied in Nick and Michael as they often prepare these sort of responses on our behalf and might be able to draft something for you.

Best

Elise

From: Davidson, Elise

Sent: Thursday, 7 June 2018 3:41 PM

To: Rickard, Delia <Delia.Rickard@acc.gov.au>; Gregson, Scott <Scott.Gregson@acc.gov.au>; Ayres, Lisa Anne <LisaAnne.Ayres@acc.gov.au>; Peter, Wendy <Wendy.Peter@acc.gov.au>

Cc: de Gruchy, Rayne <Rayne.deGruchy@acc.gov.au>

Subject: RE: Follow up question / Indigenous art [SEC=UNCLASSIFIED]

Hi all

I've just heard back from Grace; they've been in the middle of shooting. Good news Delia is we are not needed on camera for an interview at this stage, as I know your schedule is already jam packed at the moment.

Grace would like on the record something to the effect of that we have a number of active investigations into fake Indigenous art (without naming any individual businesses), and we would have concerns where

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etc etc. She was particularly interested in understanding the law in relation to misleading and deceptive and what we would think that would look like.

Scott, would it be possible for you to ask Melinda's team to draft something they are comfortable with sharing with the program? Not a huge rush, this may go to air the Sunday after next but depends on the Voice, apparently.

Thanks and best
Elise

From: Rickard, Delia
Sent: Tuesday, 5 June 2018 2:32 PM
To: Gregson, Scott <scott.gregson@acc.gov.au>; Ayres, Lisa Anne <LisaAnne.Ayres@acc.gov.au>; Davidson, Elise <elise.davidson@acc.gov.au>; Peter, Wendy <wendy.peter@acc.gov.au>
Cc: de Gruchy, Rayne <rayne.deGruchy@acc.gov.au>
Subject: RE: Follow up question / Indigenous art [SEC=UNCLASSIFIED]

Thanks for that feedback. Happy for us to do this on camera.

Sent with Good (www.good.com)

-----Original Message-----

From: Gregson, Scott
Sent: Tuesday, June 05, 2018 02:26 PM AUS Eastern Standard Time
To: Ayres, Lisa Anne; Davidson, Elise; Rickard, Delia; Peter, Wendy
Cc: de Gruchy, Rayne; Gregson, Scott
Subject: RE: Follow up question / Indigenous art [SEC=UNCLASSIFIED]

Thanks all,

There are a few sensitivities here including matters before the court. This said, I think there is a clear line of contribution we can make on the broader issues, our past activity in the area and our ongoing interest through current investigations.

I support agreeing to on camera and pleased to work on possible talking points.

Regards

Scott

Scott Gregson

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From: Ayres, Lisa Anne
Sent: Tuesday, 5 June 2018 2:18 PM

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To: Davidson, Elise <elise.davidson@acc.gov.au>; Rickard, Delia <delia.rickard@acc.gov.au>; Gregson, Scott <scott.gregson@acc.gov.au>; Peter, Wendy <wendy.peter@acc.gov.au>
Cc: de Gruchy, Rayne <rayne.deGruchy@acc.gov.au>
Subject: RE: Follow up question / Indigenous art [SEC=UNCLASSIFIED]

Elise given that conduct impacting Indigenous Australians is one of our enduring priorities I think it is worth doing the interview on camera.

As you are aware we continue to be named in the hearings of the Standing Parliamentary looking at these issues.

Lisa Anne

From: Davidson, Elise
Sent: Tuesday, 5 June 2018 12:42 PM
To: Rickard, Delia <delia.rickard@acc.gov.au>; Gregson, Scott <scott.gregson@acc.gov.au>; Peter, Wendy <wendy.peter@acc.gov.au>
Cc: Ayres, Lisa Anne <LisaAnne.Ayres@acc.gov.au>; de Gruchy, Rayne <rayne.deGruchy@acc.gov.au>
Subject: RE: Follow up question / Indigenous art [SEC=UNCLASSIFIED]

Thanks Delia. To clarify, this would not be in relation to anything before the Courts, i.e. Birubi.

E

From: Rickard, Delia
Sent: Tuesday, 5 June 2018 12:36 PM
To: Davidson, Elise <elise.davidson@acc.gov.au>; Gregson, Scott <scott.gregson@acc.gov.au>; Peter, Wendy <wendy.peter@acc.gov.au>
Cc: Ayres, Lisa Anne <LisaAnne.Ayres@acc.gov.au>; de Gruchy, Rayne <rayne.deGruchy@acc.gov.au>
Subject: RE: Follow up question / Indigenous art [SEC=UNCLASSIFIED]

While my instincts are to agree to do an on camera, however, given that we're in court, I'd take advice from Wendy on the request. As we've provided backgrounding the need for us to do it is reduced.

Cheers

Delia

Delia Rickard

Deputy Chair

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From: Davidson, Elise
Sent: Tuesday, 5 June 2018 12:02 PM
To: Gregson, Scott <scott.gregson@acc.gov.au>; Rickard, Delia <delia.rickard@acc.gov.au>
Cc: Ayres, Lisa Anne <LisaAnne.Ayres@acc.gov.au>; de Gruchy, Rayne <rayne.deGruchy@acc.gov.au>
Subject: FW: Follow up question / Indigenous art [SEC=UNCLASSIFIED]

Hi Scott, Delia

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See below from 60 Minutes. Thanks for your time and detailed background you provided yesterday, Scott, it was great.

Delia – Rod is not checking emails for the rest of today so looping you into this request. We were asked to provide background for a forthcoming 60 Minutes story on fake Indigenous art.

All - do you think we should consider this request to speak on camera on the record? We would not have to name the businesses, obviously, but I think it a good opportunity to talk about the *type* of conduct/practices we find concerning, and send a wider deterrence message.

Regards
Elise

From: Tobin, Grace <GTobin@nine.com.au>
Sent: Tuesday, 5 June 2018 11:55 AM
To: Davidson, Elise <elise.davidson@accc.gov.au>
Subject: Follow up question / Indigenous art

Hello Elise,

Thanks so much for lining up the chat yesterday with Scott Gregson. Really appreciate it.

Given it was only for background purposes, [REDACTED]

I was hoping to include a line about it in our story.

No problem if not.

Many thanks,

Grace Tobin
Producer



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