17 February 2012

Fair Work Act Review Panel
Department of Education, Employment and Workplace Relations

fairworkactreview@deewr.gov.au

Dear Review Panel

**Fair Work Act and its impact on the Textile Clothing and Footwear Industry**

We welcome the opportunity to make submissions regarding the Fair Work Act and its impact on the Textile Clothing and Footwear Industry. We are especially concerned about the impact of the Outwork and Related Provisions of the Textile, Clothing, Footwear and Associated Industries Award 2010 (TCFA Award) since 1 January 2011.

In our experience, the introduction of the TCFA Award has had an unintentional impact on legitimate home based subcontractor businesses. The effect of the award is to deem all such businesses to be employees even in situations where prior to the introduction of the TCFA Award those businesses were enjoying above award hourly rates.

Whilst additional protection may have been warranted for exploited outworkers (although as explained later there is insufficient evidence to determine this), the extension of the TCFA Award to all home based businesses has resulted in outcomes that are directly inconsistent with the object of the Fair Work Act.

The Outwork and Related Provisions (found in Schedule F of the TCFA Award) have resulted in:

1. Workplace relations laws that are unfair to legitimate home based businesses;
2. Inflexible workplace requirements;
3. **Decreased productivity** and economic growth in the Australian manufacturing sector and in fact will **drive our business offshore** if not corrected;

4. Situations where workers can **no longer balance** their work and family responsibilities via previously existing flexible arrangements;

5. **Unfair** treatment and **discrimination** of legitimate home based businesses; and

6. A complete disregard for the special circumstances of small and medium sized Australian manufacturing businesses in the fashion industry.

We are further extremely concerned that additional changes to our industry are currently before Parliament in the Fair Work Amendment (Textile Clothing and Footwear Industry) Bill 2011 at a time when this Review into the operations of the Fair Work Act are occurring. Further the amendments proposed in that Bill include:

1. extremely onerous provisions of financial liability for unpaid wages throughout the supply chain regardless of information or control;

2. unjustifiable Rights of Entry which do not require 24 hours notice; and

3. provides for accreditation but provides no details other than that the unions will have a very strong role to play in who achieves accreditation – this is not typical of accreditation in any other industry and is a clear conflict of interest.

As the issues raised in this Review and those raised by the Senate Committee enquiry into the introduction of the Fair Work Amendment (Textile Clothing and Footwear Industry) Bill 2011 are virtually identical, we enclose:

1. a copy of our submission dated 22 December 2011; and

2. a copy of our supplementary submission dated 17 February 2012.

We would welcome the opportunity to meet with the panel to discuss this matter further and would be happy to facilitate the panel meeting with affected subcontractors (now deemed employees).

Yours sincerely

Christine Metcalfe and Jenny Layton
Directors – The Ark Clothing Co.