12 May 2015

Georgina Brett
Adjudication Branch
Australian Competition & Consumer Commission
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Subject: CTM1585884 – Australian Childhood Foundation – comment

Dear Georgina,

Thank you for the opportunity for ChildSafe to respond to the Australian Childhood Foundation - Certification Trade Mark Application No 1585884.

ChildSafe are an active not-for-profit organisation with a specific mission to support community organisations improve their practice for care and harm mitigation over children. For over ten years ChildSafe have had a program that is not unlike that of Australian Childhood Foundation. Accordingly we have a specific interest in this case.

Executive Summary
Firstly ChildSafe wish to congratulate Australian Childhood Foundation (ACF) on their good work in supporting organisations to improve safety practice and care for children. Many organisations including ChildSafe are working in distinctive ways to improve organisational capacity and responsibility in the care and well being of children in care through disciplined approaches of practice. ChildSafe do not object to ACF's application subject to the assertions raised below.

ChildSafe's key assertions in this matter are briefly summarised here and expanded on later.
1. Accreditation Approach: ChildSafe have a "ChildSafe Accredited" organisation approach in scope and would not expect this Trade Mark proposal to prevent this approach nor ChildSafe's ability to Trade Mark a distinctive ChildSafe accredited brand at some time in the future.

2. ChildSafe Brand: ChildSafe expect the Australian Childhood Foundation - Certification Trade Mark Application No 1585884 would not compromise the rights ChildSafe currently have with its current brand under Australian Trade Mark #1254882.

3. Key Standards are Universal: ChildSafe want to be clear the 07 ACF principles are not by extension or in any way part of this trademark claim.

4. Inferred Practice: ChildSafe want to be clear their related guidelines and practices are not by extension or in any way part of this trademark claim.

About ChildSafe Ltd

ChildSafe Limited is a Harm Prevention Charity, established by Scripture Union (SU) Australia in 2007. The roots of the ChildSafe SP3 Safety Management System lie in the safety and care processes within SU movements in Australia and New Zealand. Since 2003 SUA intentionally developed ChildSafe with a specific desire to improve child safety among Australasian community organisations. All funds generated by sales of ChildSafe publications and subscriptions to ChildSafe are used to further the aims of ChildSafe Limited, a not-for-profit Australian Public Company.

ChildSafe SP3 Safety Management System is a unique system developed to provide standards and training resources to help organisations manage and keep children, young and vulnerable people safe. Despite the prominence given to the issue of child and vulnerable people abuse in the community and at government levels there are no national standards for safety management practice in unregulated organisations for the care of these people. ChildSafe has pioneered a framework providing a comprehensive Code of Practice to assist these organisations, challenged to move policy to achievable and robust practice.

Customers small and large across Australia and New Zealand in the community sector, use ChildSafe SP3. They are supported with a well-developed safety management framework including a unique Online Safety Management System to provide live and secure monitoring of safe practice to children and vulnerable people.

Background

ChildSafe was initiated by Scripture Union Australia in realisation of this need and as a forerunner to current inquiries and commissions that have identified the organisational shortcomings in dealing with these serious issues that leave a tragic legacy.

" . . . few organisations that submitted to the Inquiry put a strong emphasis on assessing and mitigating risks within their organisation."   Victorian Betrayal of Trust Report, 2013, p255

" Particularly concerning to the Committee were examples where failure by organisations to respond and act on early disclosures or suspicions . . ."   Victorian Betrayal of Trust Report, 2013, p307
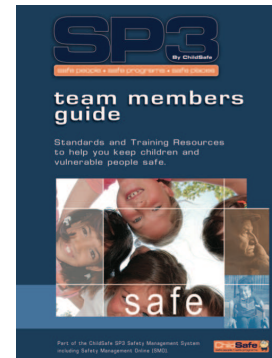
"The work that the Royal Commission is doing is revealing profound failures in the management of issues of the sexual abuse of children in various institutions".
                                          Justice Peter McClellan AM, Chair RC, 31 March 2014

These assessments, while grim are clear about the point where organisations fail. Organisations fail for many reasons to properly assess their risk and consistently screen their staff and volunteers. The Victorian Inquiry raised 15 recommendations, 3 of which have passed into law with more to follow. The Victorian government will insist (as will other states) by various instruments that community organisations improve standards in terms of proactive safety management to children and vulnerable people in their care.

ChildSafe provide strong standards and guidelines for the community sector that represent strong practice for community organisations tasked with the care of children and vulnerable people. While tens of thousands of people use ChildSafe guidelines today there are hundreds of thousands who have limited or even no systematic framework to guide their behaviour and practice.

Frameworks for safety management practice is a key response of ChildSafe to firstly educate community organisation staff and volunteers and then challenge them to more specific action of safer practice and care within the organisations they represent.

Expanded Responses to Australian Childhood Foundation Certification Trade Mark Application "Safeguarding Children"

ChildSafe wish to congratulate Australian Childhood Foundation (ACF) on their good work in supporting organisations to improve safety practice and care for children. ACF together with many organisations including ChildSafe work in distinctive ways to improve organisational capacity and responsibility in these related areas.

1. Accreditation Approach
As expectations and jurisdictional enforcements increase in the area of community organisations care and protection of children it is evident that stronger frameworks for practice will arise. This will include the establishment of voluntary or perhaps even regulatory accreditation positions. ChildSafe in its long-standing work have recognised this would be the case. ChildSafe have had since its inception an audit process available as part of its standards. As part of ChildSafe's SP3 6-step plan "Measure practice" (#5, refer attachment) exists for the reason it is insufficient to simply say you have a system or practice without some tools to measure that practice. As an extension of this measurement of practice, ChildSafe have accordingly noted in our minutes (e.g February 2014 Board meeting) and related strategy plans provision for a "ChildSafe Accredited" organisation approach. Noting the considerable resource required to adopt this position (as evidenced by ACF notes) ChildSafe are not currently in this position to provide this, but it remains within our plans to develop this position over time and as our modest resources enable.

ChildSafe have a "ChildSafe Accredited" organisation approach in scope and would not expect this Trade Mark proposal to prevent this approach nor ChildSafe's ability to Trade Mark a distinctive ChildSafe accredited brand at some time in the future.

2. ChildSafe Brand
As the term 'child safe' becomes more frequently used ChildSafe would expect such uses and any associated trade marks do not compromise the rights ChildSafe currently have with its current brand under Australian Trade Mark #1254882.

ChildSafe expect the Australian Childhood Foundation - Certification Trade Mark Application No 1585884 would not compromise the rights ChildSafe currently have with its current brand under Australian Trade Mark #1254882.

3. Key Standards are Universal
Because of the overlapping missions above there are a number of familiar standards that are replicated in our collective approaches to addressing standards and guidelines for protecting children and young people from abuse and exploitation.

The prime example of this are the key standards that exist to guide practice within organisations. Whether there are six, seven or eight key standards they are broadly common and familiar when addressing the prime purpose stated above. These include:
a. Queensland Blue Card 8 principles
        http://www.bluecard.qld.gov.au/risk-management.html
b. NSW Office of the Childrens Guardian
         http://www.kidsguardian.nsw.gov.au/working-with-children/become-a-childsafe-organisation
c. South Australian Government Child Safe Environments- 7 principles
        http://www.families.sa.gov.au/pages/protectingchildren/CreatingCSE/
d. ChildSafe 6-Step Program   - flyer attached to this letter
e. Australian Childhood Foundation   - seven standards as presented

There are many more examples that present similar principles. These are familiar to a "safeguarding children" approach.

ChildSafe want to be clear these principles are not by extension or in any way part of this trademark claim.

4. Inferred Practice
In addition to the standards referred to above the frameworks and guidelines that follow would presumably by extension not also be subject to Trade Mark protection in practice, thereby restricting the effective implementation by other organisations of similar work to safeguard children in community organisations. In particular training is seen as a prime tool in building organisational capacity to improve protection and care in this area. Such key "pillars" in delivering practice improvements should not be limited by a Trade Mark position other than an explicit tool that contains significant and distinctive intellectual property with certain unique properties, which are contained within ChildSafe's program.

ChildSafe want to be clear these related guidelines and practices are not by extension or in any way part of this trademark claim.

ChildSafe thank you for your consideration of these points in relation to this application. We welcome any inquiry to provide further information on our program or the claims made here.

Yours Sincerely,

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Child**Safe**: *Improving safety across organisations working with children and vulnerable people*

"Safety and security don't just happen, they are the result of collective consensus and public investment. We owe our children, the most vulnerable citizens in our society, a life free of violence and fear."

Nelson Mandela, former president of South Africa

In recent years community trust has been eroded in the safety and care of children in our community institutions. The Royal Commission into Institutional Responses to Child Sexual Abuse addressed the abuse issues this way:

"Child sexual abuse affects the entire community and diminishes the trust we place in our institutions. That trust is further eroded when an institution fails to appropriately respond to the victim's needs".

SP3
By ChildSafe

safe people • safe programs • safe places

It is within our grasp to improve these outcomes. It remains implicit upon communities and institutions specifically, within those communities, to do better. Strong communities can foster better protections for our children and other vulnerable people and ward off potential abusers. ChildSafe's SP3 safety management system empowers workers and volunteers to improve outcomes.

Read this brochure for further details on how you can provide better environments for children and vulnerable people or contact ChildSafe directly.

Contact ChildSafe

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The ChildSafe SP3 ⑥-Step Plan

ChildSafe ™

safe people • safe programs • safe places

SP3: Safe People, Programs and Places

ChildSafe seeks to radically improve child and vulnerable people safety across a range of organisations in Australia and New Zealand. Our SP3 Safety Management System helps maintain high standards, both with the appointment and training of those who work with children and vulnerable people, and the risk management of programs and activities carried out by those organisations. That's why the by-line is "Safe People/Safe Programs/Safe Places" or SP3.

Children and vulnerable people need our protection. ChildSafe is a harm prevention charity set up to help organisations deliver that protection.

To achieve this mission community organisations and individuals need to apply themselves to a disciplined task of safety management. To that end ChildSafe have a 6-Step Plan to enable a clear understanding of the safety objectives required to accomplish this mission.

Training will be a valuable component of this but alone it fails to express in practice how you achieve this. In the same way a "ChildSafe" organisation is significantly more than just having your "working with children" cards.

The SP3 ❻-Step Plan

To provide a robust safety management system that protects children and vulnerable people in the care of community organisations you will want a comprehensive plan of managing that expectation.

Here's the SP3 6-Step Plan.

❶ Culture of Safety
What organisations say and do often vary. The organisation must keep up the challenge of sound safety and care practice and keep its people accountable.
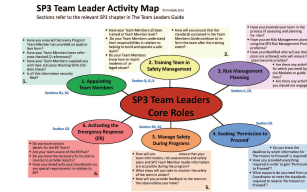
❷ Screen, Appoint and Train
A disciplined and non-discriminatory process of screening workers and volunteers is essential. Providing role expectations and training follows from this.

❸ Strong Procedures & Code of Practice
Clear navigational tools help shape good, consistent and appropriate preventative practice.

The SP3 ❻-Step Plan

SP3 maps an effective safety management system

❹ Integrating Risk Management Practice
SP3 brings together established risk management principles and key frameworks to guide effective safety and care.

❺ Measure Practice
Ensure policy is reflected in practice using a variety of tools including audits. Protecting children and vulnerable people requires action subject to review.

❻ Emergency and Reporting Protocols
A robust safety system includes protocols for responding to emergencies including abuse disclosures, that people clearly understand.