



**Australian  
Competition &  
Consumer  
Commission**

**Final Assessment of Certification Trade Mark Applications 1320618 and 1320620  
lodged by Headspace National Youth Mental Health Foundation Ltd**

The Australian Competition and Consumer Commission (the ACCC), in accordance with the requirements of the *Trade Marks Act 1995*, has completed its Final Assessment of the above Certification Trade Mark (CTM) applications.

The ACCC's Final Assessment is that it is satisfied that:

- (a) the approved certifiers demonstrate the attributes necessary to competently certify the goods and/or services in respect of which the CTMs are to be registered;
- (b) the rules governing the use of the CTMs would not be to the detriment of the public;  
and
- (c) the rules governing the use of the CTMs are satisfactory having regard to the principles relating to restrictive trade practices set out in Part IV of the *Competition and Consumer Act 2010* (the Act) and the principles relating to unconscionable conduct (Part 2-2), unfair practices (Part 3-1), and safety of consumer goods and product related services (Part 3-3) in Schedule 2 (Australian Consumer Law) of the Act.

Signed.....

*Michael Glazer* (Deputy Chair)

Date.....

*21<sup>st</sup> February 2013*

**CERTIFICATION TRADE MARK RULES**  
**governing the use in Australia of Australian Certification Trade**  
**Marks registration no. 1320618 and 1320620**

The certification trade marks of  
Headspace National Youth Mental Health Foundation Limited ACN 137533843  
(‘Headspace’)

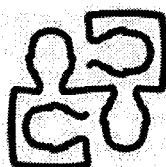
**The Trade Marks**

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1 The following is the subject of Australia Certification Trade Mark No. 1320618 for services in classes 35, 41, 42 and 44:

HEADSPACE

2 The following device is the subject of Australian Certification Trade Mark No. 1320620 for services in classes 35, 41, 42 and 44:



3 The certification trade marks in Rules 1 and 2 are collectively known as the **Trade Marks** in these Rules.

4 Both Trade Marks are registered in respect of:

**Class: 35** Promoting awareness in relation to mental health including via the Internet

**Class: 41** Education, training and promoting community awareness in relation to mental health, substance misuse disorders their prevention and treatment, including via the Internet

**Class: 42** Research in relation to mental health, substance misuse disorders their prevention and treatment

**Class: 44** Health care consultancy services (medical); medical advisory services; medical clinics; medical counselling; medical treatment; mental health care consultancy and referral services; providing information in relation to mental health, substance misuse disorders, treatment and prevention including via the Internet; developing, prevention intervention and treatment programs in relation to mental health and related substance misuse disorders.

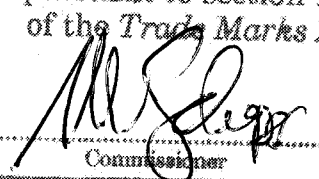
**Use of the Trade Marks**

5 The Trade Marks will be used by Centres which offer Headspace services, being:

- general health advice;
- mental health advice and counselling;
- education, employment and related services; and
- alcohol and other drug services.

6 The Trade Marks indicate that Centres are properly and adequately supervised and that the health professionals and staff of such Centres possess the relevant accreditation according to these Rules to carry out the services offered by Headspace.

pursuant to section 175(2)(b)  
of the Trade Marks Act 1995

  
..... 21 Feb 2018  
Commissioner Date

## Application of rules

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- 7 These rules will apply to:
- (a) Headspace;
  - (b) all Applicants applying to use the Trade Marks; and
  - (c) all health professionals and staff of such Applicants.

## Definitions

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- 8 In these Rules:
- (a) **"Applicant"** means a Centre that has applied to use the Trade Marks;
  - (b) **"Authorised User"** means an Applicant whose application has been accepted by Headspace;
  - (c) **"Board"** means the Certification Board appointed pursuant to Rule 30 of these Rules, that being an ad hoc team comprising of senior executives of Headspace under the control of the Chief Executive Officer (CEO) of Headspace;
  - (d) **"Business Day"** means a day that is not a Saturday, Sunday or any other day which is a public holiday or bank holiday in the place where an act is to be performed or a payment is to be made;
  - (e) **"Centre"** means a party that is the recipient of a grant of funding from Headspace pursuant to the Headspace Grant Agreement and provides integrated and co-ordinated services as outlined in Rule 5;
  - (f) **"Headspace"** means Headspace National Youth Mental Health Foundation Limited ACN 137533843 and is a not-for-profit company limited by guarantee, incorporated in 2006 to promote the improved health and mental health outcomes of young people in Australia;
  - (g) **"Headspace Grant Agreement"** means the agreement established between the Centre and Headspace upon the Centre's receipt of a grant of funding from Headspace;
  - (h) **"Liaison Officer"** means the person which occupies the position of Headspace Head Centre Support;
  - (i) **"Registrar"** means the Registrar of Trade Marks;
  - (j) **"Supervisor"** means a nominated operational manager appointed pursuant to Rule 20 to supervise and oversee the discharge of services offered by Headspace at each location.

## Property in the Trade Marks

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- 9 The Trade Marks are and remain the property of Headspace and must not be used by any person except under and by virtue of a certificate issued in accordance with these Rules or with the authority of Headspace.

## Use of the Trade Marks

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### Use of the Trade Marks by Headspace

- 10 Headspace may use and authorise the use of the Trade Marks for administrative, educational, business and advertising and promotional purposes.

### Amendment of rules

- 11 Headspace may alter these Rules at any time or make new ones in whole or in part, subject to the approval of the Registrar of Trade Marks and the Australian Competition and Consumer Commission.

If Headspace wishes to alter these Rules, it will apply to the Registrar to make such amendments. Amendments to these Rules will not have effect until the Registrar varies these Rules in accordance with section 178 of the *Trade Marks Act 1995* (Cth).

Headspace will give notice in writing to all affected Applicants of such variation of the Rules.

## Application and procedures to use the Trade Marks

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- 12 An application to use the Trade Marks must be made in writing to Headspace.
- 13 An application must be accompanied by:
- (a) relevant documentation of supervisors, health professionals and staff of the Applicant;
  - (b) a warranty from the Applicant that the Centre complies with any relevant national police checks requirements (in accordance with the guidelines of the Australian Federal Police of supervisors, health professionals and staff of the Applicant) and that any relevant working with children checks have been carried out;
  - (c) details and information about the location of the premises at which Headspace services are proposed to be offered.
- 14 If all the requirements stipulated under rule 13 are satisfied, the Board will confirm receipt of the Applicant's application as soon as practicable. The application will then be considered by the Board, as duly appointed pursuant to these Rules. If necessary, the Board has the right to interview the Applicant in person or via teleconference.
- 15 The Board may accept or reject the application or may defer acting on the application in order to clarify any aspect of the application. The Board may issue certification subject to specified conditions.
- 16 Headspace (including the Board) has absolute discretion to carry out further investigations relating to any information provided by the Applicant. Headspace will inform the Applicant prior to doing so.
- 17 The Board will inform the Applicant of its decision in writing to:
- (a) accept;
  - (b) reject; or
  - (c) defer
- an application within 90 calendar days of the date of the Board's letter confirming receipt of the Applicant's application.
- 18 An Applicant whose application has been rejected or deferred may re-apply subsequently.

## Certification

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- 19 Certification consists of three aspects:
- (a) supervision certification;
  - (b) health professionals and staff certification; and
  - (c) premises certification.

### Supervision certification

- 20 Applicants must appoint a nominated operational manager to supervise and oversee the discharge of services offered by Headspace by health professionals and staff at each location. This role is known as the supervisor in these Rules.
- 21 A supervisor is responsible for the smooth and qualified offering of Headspace services by an Applicant's employed health professionals and staff. A supervisor may act in both a supervisory role and a practising role at the clinic offering Headspace services.
- 22 Applicants must notify Headspace within 10 business days of any change in the position of the supervisor.

### Health professionals and staff certification

- 23 Certification shall be offered to the following staff, if the Applicant's health professionals and staff meet the requirements as set out in rules 25 to 26.
- (a) medical practitioners
  - (b) psychologists;
  - (c) social workers;
  - (d) occupational therapists;
  - (e) mental health nurses;
  - (f) nurse practitioners;
  - (g) drug and alcohol workers;
  - (h) youth workers;
  - (i) Aboriginal and Torres Strait Islander health workers
- 24 In order to qualify for use of the Trade Marks, health professionals and staff, as outlined in rule 23, must meet the conditions stipulated in rule 25 and rule 26.
- 25 To competently provide Headspace services, the health professionals and staff must have appropriate:
- (a) knowledge (including the theory underpinning evidence-based interventions, and research into their effectiveness);
  - (b) skills (in delivering best practice, evidence-based, effective interventions);
  - (c) experience in assessing and working with young people with a range of mental health and drug and alcohol problems; and
  - (d) commitment to ongoing professional development, including participation in relevant training and education.
- 26 Health professionals and staff engaged to deliver Headspace services must:
- (a) be appropriately qualified, that is, have a relevant TAFE or tertiary qualification;

- (b) be registered by an appropriate state authority to practice (where State registration exists) and/or (where the profession does not have registration) be members of a professional body with ethical and professional guidelines, and accountability and disciplinary procedures for dealing with malpractice, incompetence and unethical behaviour;
- (c) have agreed to abide by ethical conduct principles as established by the Medical Board of Australia, the Nursing and Midwifery Board of Australia, the Physiotherapy Board of Australia or relevant equivalents;
- (d) experience in working with people aged 12 to 25 years and adequately experienced in the field of mental health and/or drug and alcohol, or (to allow for the entry of newly-trained persons into the field) under the approved and direct professional supervision of a fully qualified and registered worker in that field;
- (e) undertake continuing professional development and have an intention to satisfy the CPD requirements of the required Medical and allied health registration Boards of Australia.
- (f) be approved to work with children via a Working with Children check or equivalent;

### **Premises certification**

- 27 The premises where Headspace services are proposed to be offered must be clean and conducive to the aims of Headspace.
- 28 Details and photographs of the premises must be submitted on request together with an Applicant's application.
- 29 Headspace reserves the right to make further enquiries regarding the premises, including a physical inspection.

### **The Certification Board**

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- 30 A Certification Board will be established under these Rules.
- 31 The Board will be responsible for establishing appropriate application procedures, funding arrangements, withdrawing certification where there is a breach of the Rules, professional or ethical standards or a breach of any condition under the Headspace Grant Agreement, monitoring and reviewing of the certification process and providing suggested amendments where appropriate.
- 32 The Board will consist of an ad hoc team comprising senior executives of Headspace under the control of the CEO of Headspace.
- 33 The CEO of Headspace shall:
  - (a) be responsible for the identification and nomination of suitable candidates for appointment to the Board;
  - (b) ratify the appointment of Board members;
  - (c) be the Chairman of the Board.
- 34 Members of the Board will serve a term for as long as they continue to be senior executives of Headspace.

## Maintaining use of the Trade Marks

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- 35 In maintaining use of the Trade Marks, Authorised Users are required to:
- (a) ensure that the clinics from which Headspace services are offered are maintained in good order;
  - (b) provide updates to Headspace if a health professional or staff is involved in a professional ethics or legal dispute;
  - (c) where relevant, provide documentation to Headspace proving that health professionals and staff of the Authorised User have fulfilled CPD (continuing personal/professional development) obligations;
  - (d) display an image of the Trade Marks in a prominent manner at the premises from which Headspace services are offered, to enable the public to readily view the Trade Marks;
  - (e) inform Headspace of any change of address;
  - (f) provide Headspace with any necessary information, material or assistance, as required in writing by Headspace within 5 Business Days or as specified in the written request; and
  - (g) if directed by Headspace, dismiss a health professional or member of staff if a breach of ethics is proven or in the case of a criminal conviction.

## Monitoring the use of the Trade Marks

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- 36 Headspace reserves the right to conduct random audits of Authorised Users to ensure that the requirements of Rule 35 are complied with.
- 37 If the Authorised User has not complied with Rule 35, Headspace will notify the Authorised User in writing. Within 14 days of receipt of such notice, the Authorised User must:
- (a) comply with the requirements of Rule 35; or
  - (b) surrender its rights to use the Trade Marks.
- 38 Should the Authorised User fail to comply with Rule 35 within the stipulated period or surrender its rights to use the Trade Marks, the Authorised User must:
- (c) relinquish, in writing, all rights to use the Trade Marks;
  - (d) agree not to use the Trade Marks including for advertising and promotional purposes; and
  - (e) destroy all advertising or promotional items bearing the Trade Marks, even if items are unused.
- 39 If a Centre ceases to receive funding from Headspace as a result of a breach of these Rules, the Headspace Grant Agreement will be deemed to have come to an end and the Centre will not be permitted to use the Trade Marks, including for advertising and promotional purposes. The Centre must also undertake to destroy all advertising or promotional items bearing the Trade Marks, even if items are unused.

## Dispute resolution

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- 40 If a dispute arises from:
- (a) a refusal or deferral by Headspace to allow the use of the Trade Marks; or

- (b) Headspace's decision to cancel certification; or
- (c) any other issue relating to the use of the Trade Marks.

then the parties will endeavour in good faith to settle the dispute in accordance with this clause.

- 41 Where a party considers that a dispute, as described under rule 40, has arisen, the aggrieved party must give a written Notice of Dispute to Headspace as soon as reasonably practicable setting out:
- (a) details of the nature of the dispute;
  - (b) the party's proposed resolution of the dispute.
- 42 Within 5 Business Days after the Notice of Dispute being given in accordance with rules 40 and 41, the Liaison Officer or their successor or nominees will meet with and use their best endeavours to negotiate a resolution of the dispute acceptable to both parties.
- 43 If the dispute is not resolved in accordance with rule 42 within 10 Business Days after the initial dispute resolution meeting, the dispute will be submitted to the chief executive officer of Headspace and both parties will use their best endeavours to resolve the dispute as soon as possible.